

107TH CONGRESS  
2D SESSION

# S. 2887

To provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities.

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IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2002

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities.

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 “Homeland Security  
5       Information Sharing Act”.

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

7       (a) FINDINGS.—Congress makes the following find-  
8       ings:

1           (1) The Federal Government is required by the  
2           Constitution to provide for the common defense,  
3           which includes terrorist attack.

4           (2) The Federal Government relies on State  
5           and local personnel to protect against terrorist at-  
6           tack.

7           (3) The Federal Government collects, creates,  
8           manages, and protects classified and sensitive but  
9           unclassified information to enhance homeland secu-  
10          rity.

11          (4) Some homeland security information is  
12          needed by the State and local personnel to prevent  
13          and prepare for terrorist attack.

14          (5) The needs of State and local personnel to  
15          have access to relevant homeland security informa-  
16          tion to combat terrorism must be reconciled with the  
17          need to preserve the protected status of such infor-  
18          mation and to protect the sources and methods used  
19          to acquire such information.

20          (6) Granting security clearances to certain  
21          State and local personnel is one way to facilitate the  
22          sharing of information regarding specific terrorist  
23          threats among Federal, State, and local levels of  
24          government.

1           (7) Methods exist to declassify, redact, or other-  
2           wise adapt classified information so it may be shared  
3           with State and local personnel without the need for  
4           granting additional security clearances.

5           (8) State and local personnel have capabilities  
6           and opportunities to gather information on sus-  
7           picious activities and terrorist threats not possessed  
8           by Federal agencies.

9           (9) The Federal Government and State and  
10          local governments and agencies in other jurisdictions  
11          may benefit from such information.

12          (10) Federal, State, and local governments and  
13          intelligence, law enforcement, and other emergency  
14          preparation and response agencies must act in part-  
15          nership to maximize the benefits of information  
16          gathering and analysis to prevent and respond to  
17          terrorist attacks.

18          (11) Information systems, including the Na-  
19          tional Law Enforcement Telecommunications Sys-  
20          tem and the Terrorist Threat Warning System, have  
21          been established for rapid sharing of classified and  
22          sensitive but unclassified information among Fed-  
23          eral, State, and local entities.

1           (12) Increased efforts to share homeland secu-  
2           rity information should avoid duplicating existing in-  
3           formation systems.

4           (b) SENSE OF CONGRESS.—It is the sense of Con-  
5           gress that Federal, State, and local entities should share  
6           homeland security information to the maximum extent  
7           practicable, with special emphasis on hard-to-reach urban  
8           and rural communities.

9           **SEC. 3. FACILITATING HOMELAND SECURITY INFORMA-**  
10           **TION SHARING PROCEDURES.**

11           (a) PRESIDENTIAL PROCEDURES FOR DETERMINING  
12           EXTENT OF SHARING OF HOMELAND SECURITY INFOR-  
13           MATION.—(1) The President shall prescribe procedures  
14           under which relevant Federal agencies determine—

15                   (A) whether, how, and to what extent homeland  
16                   security information may be shared with appropriate  
17                   State and local personnel, and with which such per-  
18                   sonnel it may be shared;

19                   (B) how to identify and safeguard homeland se-  
20                   curity information that is sensitive but unclassified;  
21                   and

22                   (C) to the extent such information is in classi-  
23                   fied form, whether, how, and to what extent to re-  
24                   move classified information, as appropriate, and with

1       which such personnel it may be shared after such in-  
2       formation is removed.

3       (2) The President shall ensure that such procedures  
4       apply to all agencies of the Federal Government.

5       (3) Such procedures shall not change the substantive  
6       requirements for the classification and safeguarding of  
7       classified information.

8       (4) Such procedures shall not change the require-  
9       ments and authorities to protect sources and methods.

10       (b) PROCEDURES FOR SHARING OF HOMELAND SE-  
11       curity INFORMATION.—(1) Under procedures prescribed  
12       by the President, all appropriate agencies, including the  
13       intelligence community, shall, through information sharing  
14       systems, share homeland security information with appro-  
15       priate State and local personnel to the extent such infor-  
16       mation may be shared, as determined in accordance with  
17       subsection (a), together with assessments of the credibility  
18       of such information.

19       (2) Each information sharing system through which  
20       information is shared under paragraph (1) shall—

21               (A) have the capability to transmit unclassified  
22               or classified information, though the procedures and  
23               recipients for each capability may differ;

24               (B) have the capability to restrict delivery of in-  
25               formation to specified subgroups by geographic loca-

1       tion, type of organization, position of a recipient  
2       within an organization, or a recipient's need to know  
3       such information;

4               (C) be configured to allow the efficient and ef-  
5       fective sharing of information; and

6               (D) be accessible to appropriate State and local  
7       personnel.

8       (3) The procedures prescribed under paragraph (1)  
9       shall establish conditions on the use of information shared  
10      under paragraph (1)—

11              (A) to limit the dissemination of such infor-  
12      mation to ensure that such information is not used  
13      for an unauthorized purpose;

14              (B) to ensure the security and confidentiality of  
15      such information;

16              (C) to protect the constitutional and statutory  
17      rights of any individuals who are subjects of such in-  
18      formation; and

19              (D) to provide data integrity through the timely  
20      removal and destruction of obsolete or erroneous  
21      names and information.

22      (4) The procedures prescribed under paragraph (1)  
23      shall ensure, to the greatest extent practicable, that the  
24      information sharing system through which information is  
25      shared under such paragraph include existing information

1 sharing systems, including, but not limited to, the Na-  
2 tional Law Enforcement Telecommunications System, the  
3 Regional Information Sharing System, and the Terrorist  
4 Threat Warning System of the Federal Bureau of Inves-  
5 tigation.

6 (5) Each appropriate Federal agency, as determined  
7 by the President, shall have access to each information  
8 sharing system through which information is shared under  
9 paragraph (1), and shall therefore have access to all infor-  
10 mation, as appropriate, shared under such paragraph.

11 (6) The procedures prescribed under paragraph (1)  
12 shall ensure that appropriate State and local personnel are  
13 authorized to use such information sharing systems—

14 (A) to access information shared with such per-  
15 sonnel; and

16 (B) to share, with others who have access to  
17 such information sharing systems, the homeland se-  
18 curity information of their own jurisdictions, which  
19 shall be marked appropriately as pertaining to po-  
20 tential terrorist activity.

21 (7) Under procedures prescribed jointly by the Direc-  
22 tor of Central Intelligence and the Attorney General, each  
23 appropriate Federal agency, as determined by the Presi-  
24 dent, shall review and assess the information shared under

1 paragraph (6) and integrate such information with exist-  
2 ing intelligence.

3 (c) SHARING OF CLASSIFIED INFORMATION AND  
4 SENSITIVE BUT UNCLASSIFIED INFORMATION WITH  
5 STATE AND LOCAL PERSONNEL.—(1) The President shall  
6 prescribe procedures under which Federal agencies may,  
7 to the extent the President considers necessary, share with  
8 appropriate State and local personnel homeland security  
9 information that remains classified or otherwise protected  
10 after the determinations prescribed under the procedures  
11 set forth in subsection (a).

12 (2) It is the sense of Congress that such procedures  
13 may include one or more of the following means:

14 (A) Carrying out security clearance investiga-  
15 tions with respect to appropriate State and local per-  
16 sonnel.

17 (B) With respect to information that is sen-  
18 sitive but unclassified, entering into nondisclosure  
19 agreements with appropriate State and local per-  
20 sonnel.

21 (C) Increased use of information-sharing part-  
22 nerships that include appropriate State and local  
23 personnel, such as the Joint Terrorism Task Forces  
24 of the Federal Bureau of Investigation, the Anti-

1 Terrorism Task Forces of the Department of Jus-  
2 tice, and regional Terrorism Early Warning Groups.

3 (d) RESPONSIBLE OFFICIALS.—For each affected  
4 Federal agency, the head of such agency shall designate  
5 an official to administer this Act with respect to such  
6 agency.

7 (e) FEDERAL CONTROL OF INFORMATION.—Under  
8 procedures prescribed under this section, information ob-  
9 tained by a State or local government from a Federal  
10 agency under this section shall remain under the control  
11 of the Federal agency, and a State or local law authorizing  
12 or requiring such a government to disclose information  
13 shall not apply to such information.

14 (f) DEFINITIONS.—In this section:

15 (1) The term “homeland security information”  
16 means any information possessed by a Federal,  
17 State, or local agency that—

18 (A) relates to the threat of terrorist activ-  
19 ity;

20 (B) relates to the ability to prevent, inter-  
21 dict, or disrupt terrorist activity;

22 (C) would improve the identification or in-  
23 vestigation of a suspected terrorist or terrorist  
24 organization; or

1 (D) would improve the response to a ter-  
2 rorist act.

3 (2) The term “intelligence community” has the  
4 meaning given such term in section 3(4) of the Na-  
5 tional Security Act of 1947 (50 U.S.C. 401a(4)).

6 (3) The term “State and local personnel”  
7 means any of the following persons involved in pre-  
8 vention, preparation, or response for terrorist attack:

9 (A) State Governors, mayors, and other lo-  
10 cally elected officials.

11 (B) State and local law enforcement per-  
12 sonnel and firefighters.

13 (C) Public health and medical profes-  
14 sionals.

15 (D) Regional, State, and local emergency  
16 management agency personnel, including State  
17 adjutant generals.

18 (E) Other appropriate emergency response  
19 agency personnel.

20 (F) Employees of private-sector entities  
21 that affect critical infrastructure, cyber, eco-  
22 nomic, or public health security, as designated  
23 by the Federal government in procedures devel-  
24 oped pursuant to this section.

1           (4) The term “State” includes the District of  
2           Columbia and any commonwealth, territory, or pos-  
3           session of the United States.

4 **SEC. 4. REPORT.**

5           (a) **REPORT REQUIRED.**—Not later than 12 months  
6 after the date of the enactment of this Act, the President  
7 shall submit to the congressional committees specified in  
8 subsection (b) a report on the implementation of section  
9 3. The report shall include any recommendations for addi-  
10 tional measures or appropriation requests, beyond the re-  
11 quirements of section 3, to increase the effectiveness of  
12 sharing of information among Federal, State, and local  
13 entities.

14           (b) **SPECIFIED CONGRESSIONAL COMMITTEES.**—The  
15 congressional committees referred to in subsection (a) are  
16 the following committees:

17           (1) The Permanent Select Committee on Intel-  
18 ligence and the Committee on the Judiciary of the  
19 House of Representatives.

20           (2) The Select Committee on Intelligence and  
21 the Committee on the Judiciary of the Senate.

22 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

23           There are authorized to be appropriated such sums  
24 as may be necessary to carry out section 3.

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