

109TH CONGRESS  
2D SESSION

# S. 3774

To amend title 18, United States Code, to prohibit the unauthorized disclosure of classified information.

---

## IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2006

Mr. BOND (for himself, Mr. LOTT, Mr. CHAMBLISS, Mr. STEVENS, Mr. COCHRAN, Mr. BURNS, Mr. HATCH, Mr. SANTORUM, Mr. CORNYN, Mr. DOMENICI, Mr. BENNETT, and Mr. ALEXANDER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To amend title 18, United States Code, to prohibit the unauthorized disclosure of classified information.

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. PROHIBITION ON UNAUTHORIZED DISCLOSURE**

4 **OF CLASSIFIED INFORMATION.**

5 (a) IN GENERAL.—Chapter 37 of title 18, United  
6 States Code, is amended—

7 (1) by redesignating section 798A as section  
8 798B; and

1           (2) by inserting after section 798 the following  
2           new section 798A:

3   **“§ 798A. Unauthorized disclosure of classified infor-**  
4                           **mation**

5           “(a) PROHIBITION.—Whoever, being an officer or  
6   employee of the United States, a former or retired officer  
7   or employee of the United States, any other person with  
8   authorized access to classified information, or any other  
9   person formerly with authorized access to classified infor-  
10   mation, knowingly and willfully discloses, or attempts to  
11   disclose, any classified information to a person (other than  
12   an officer or employee of the United States with author-  
13   ized access to classified information) who is not authorized  
14   access to such classified information, knowing that the  
15   person is not authorized access to such classified informa-  
16   tion, shall be fined under this title, imprisoned not more  
17   than 3 years, or both.

18           “(b) CONSTRUCTION OF PROHIBITION.—Nothing in  
19   this section shall be construed to establish criminal liabil-  
20   ity for disclosure of classified information in accordance  
21   with applicable law to the following:

22           “(1) Any justice or judge of a court of the  
23   United States established pursuant to article III of  
24   the Constitution of the United States.

1           “(2) The Senate or House of Representatives,  
2           or any committee or subcommittee thereof, or joint  
3           committee thereof, or any member of Congress.

4           “(3) A person or persons acting on behalf of a  
5           foreign power (including an international organiza-  
6           tion) if the disclosure—

7                   “(A) is made by an officer or employee of  
8                   the United States who has been authorized to  
9                   make the disclosure; and

10                   “(B) is within the scope of such officer’s or  
11                   employee’s duties.

12           “(4) Any other person authorized to receive the  
13           classified information.

14           “(c) DEFINITIONS.—In this section:

15                   “(1) The term ‘authorized’, in the case of ac-  
16                   cess to classified information, means having author-  
17                   ity or permission to have access to the classified in-  
18                   formation pursuant to the provisions of a statute,  
19                   Executive Order, regulation, or directive of the head  
20                   of any department or agency who is empowered to  
21                   classify information, an order of any United States  
22                   court, or a provision of any Resolution of the Senate  
23                   or Rule of the House of Representatives which gov-  
24                   erns release of classified information by such House  
25                   of Congress.

1           “(2) The term ‘classified information’ means in-  
2           formation or material properly classified and clearly  
3           marked or represented, or that the person knows or  
4           has reason to believe has been properly classified by  
5           appropriate authorities, pursuant to the provisions  
6           of a statute or Executive Order, as requiring protec-  
7           tion against unauthorized disclosure for reasons of  
8           national security.

9           “(3) The term ‘officer or employee of the  
10          United States’ means the following:

11                   “(A) An officer or employee (as those  
12                   terms are defined in sections 2104 and 2105 of  
13                   title 5).

14                   “(B) An officer or enlisted member of the  
15                   Armed Forces (as those terms are defined in  
16                   section 101(b) of title 10).”.

17          (b) CLERICAL AMENDMENT.—The table of sections  
18          at the beginning of that chapter is amended by striking  
19          the item relating to section 798A and inserting the fol-  
20          lowing new items:

“798A. Unauthorized disclosure of classified information.

“798B. Temporary extension of section 794.”.

○