

117TH CONGRESS
1ST SESSION

S. 2340

To improve the safety and security of the Federal judiciary.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2021

Mr. MENENDEZ (for himself, Mr. BOOKER, Mr. GRAHAM, Mr. DURBIN, Mr. KENNEDY, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To improve the safety and security of the Federal judiciary.

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 “Daniel Anderl Judicial
5 Security and Privacy Act of 2021”.

6 **SEC. 2. PURPOSE; RULES OF CONSTRUCTION.**

7 (a) PURPOSE.—The purpose of this Act is to improve
8 the safety and security of Federal judges, including senior,
9 recalled, or retired Federal judges, and their immediate
10 family, to ensure Federal judges are able to administer
11 justice fairly without fear of personal reprisal from indi-

viduals affected by the decisions they make in the course of carrying out their public duties.

(b) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this Act shall be construed—

(A) to prohibit, restrain, or limit—

(i) the lawful investigation or reporting by the press of any unlawful activity or misconduct alleged to have been committed by an at-risk individual or their immediate family; or

(ii) the reporting on an at-risk individual or their immediate family regarding matters of public concern;

(B) to impair access to decisions and opinions from a Federal judge in the course of carrying out their public functions; or

(C) to limit the publication or transfer of personally identifiable information that the at-risk individual or their immediate family member voluntarily publishes on the internet after the date of enactment of this Act.

(2) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—This Act shall be broadly construed to favor the protection of the personally iden-

1 tifiable information of at-risk individuals and their
2 immediate family.

3 **SEC. 3. FINDINGS.**

4 Congress finds the following:

5 (1) Members of the Federal judiciary perform
6 the important function of interpreting our Constitu-
7 tion and administering justice in a fair and impartial
8 manner.

9 (2) In recent years, partially as a result of the
10 rise in the use of social media and online access to
11 information, members of the Federal judiciary have
12 been exposed to an increased number of personal
13 threats in connection to their role. The ease of ac-
14 cess to free or inexpensive sources of personally
15 identifiable information has considerably lowered the
16 effort required for malicious actors to discover where
17 individuals live, where they spend leisure hours, and
18 to find information about their family members.
19 Such threats have included calling a judge a traitor
20 with references to mass shootings and serial killings,
21 calling for an “angry mob” to gather outside a
22 judge’s home and, in reference to a United States
23 courts of appeals judge, stating how easy it would be
24 to “get them.”

1 (3) Between 2015 and 2019, threats and other
2 inappropriate communications against Federal
3 judges and other judiciary personnel increased from
4 926 in 2015 to approximately 4,449 in 2019.

5 (4) Over the past decade, several members of
6 the Federal judiciary have experienced acts of vio-
7 lence against themselves or a family member in con-
8 nection to their Federal judiciary role, including the
9 murder of the family of United States District
10 Judge for the Northern District of Illinois Joan
11 Lefkow in 2005.

12 (5) On Sunday July 19, 2020, an assailant
13 went to the home of Esther Salas, a judge for the
14 United States District Court for the District of New
15 Jersey, impersonating a package delivery driver,
16 opening fire upon arrival, and killing Daniel Anderl,
17 the 20-year-old only son of Judge Salas, and seri-
18 ously wounding Mark Anderl, her husband.

19 (6) In the aftermath of the recent tragedy that
20 occurred to Judge Salas and in response to the con-
21 tinuous rise of threats against members of the Fed-
22 eral judiciary, there is an immediate need for en-
23 hanced security procedures and increased availability
24 of tools to protect Federal judges and their families.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) AT-RISK INDIVIDUAL.—The term “at-risk
4 individual” means—

5 (A) a Federal judge; or

6 (B) a senior, recalled, or retired Federal
7 judge

8 (2) DATA BROKER.—

9 (A) IN GENERAL.—The term “data
10 broker” means a business or commercial entity
11 when it is engaged in collecting, assembling, or
12 maintaining personal information concerning an
13 individual who is not a customer, client, or an
14 employee of that entity in order to sell the in-
15 formation or otherwise profit from providing
16 third party access to the information.

17 (B) EXCLUSION.—The following activities
18 conducted by a business or commercial entity,
19 and the collection and sale or licensing of per-
20 sonally identifiable information incidental to
21 conducting these activities do not qualify the
22 entity as a data broker:

23 (i) Engaging in reporting, newsga-
24 thering, speaking, or other activities in-
25 tended to inform the public on matters of
26 public interest or public concern.

1 (ii) Providing 411 directory assistance
2 or directory information services, including
3 name, address, and telephone number, on
4 behalf of or as a function of a tele-
5 communications carrier.

6 (iii) Utilizing personal information in-
7 ternally, providing access to businesses
8 under common ownership or affiliated by
9 corporate control, or selling or providing
10 data for a transaction or service requested
11 by or concerning the individual whose per-
12 sonal information is being transferred.

13 (iv) Providing publicly available infor-
14 mation via real-time or near-real-time alert
15 services for health or safety purposes.

16 (v) A consumer reporting agency to
17 the extent that it is covered by the Federal
18 Fair Credit Reporting Act (15 U.S.C.
19 1681 et seq.).

20 (vi) A financial institution to the ex-
21 tent that it is covered by the Gramm-
22 Leach-Bliley Act (Public Law 106–102)
23 and implementing regulations.

24 (vii) An entity to the extent that it is
25 covered by the Health Insurance Port-

1 ability and Accountability Act (Public Law
2 104–191).

3 (3) FEDERAL JUDGE.—The term “Federal
4 judge” means—

5 (A) a justice or judge of the United States,
6 as those terms are defined in section 451 of
7 title 28, United States Code;

8 (B) a bankruptcy judge appointed under
9 section 152 of title 28, United States Code;

10 (C) a United States magistrate judge ap-
11 pointed under section 631 of title 28, United
12 States Code;

13 (D) a judge confirmed by the United
14 States Senate and empowered by statute in any
15 commonwealth, territory, or possession to per-
16 form the duties of a Federal judge; and

17 (E) a judge of the United States Court of
18 Federal Claims appointed under section 171 of
19 title 28, United States Code.

20 (4) GOVERNMENT AGENCY.—The term “Gov-
21 ernment agency” means any department enumerated
22 in section 1 of title 5 of the United States Code,
23 independent establishment, commission, administra-
24 tion, authority, board or bureau of the United States
25 or any corporation in which the United States has

1 a proprietary interest. The term includes all such in-
 2 stitutions, offices, and any other bodies politic and
 3 corporate of the United States Government created
 4 by the constitution or statute, whether in the execu-
 5 tive, judicial, or legislative branch; all units and cor-
 6 porate outgrowths created by Executive order of the
 7 President or any constitutional officer, by the Su-
 8 preme Court of the United States, or by resolution
 9 of the United States Congress.

10 (5) IMMEDIATE FAMILY.—The term “immediate
 11 family” means a spouse, child, parent, or any other
 12 familial relative of an at-risk individual whose per-
 13 manent residence is the same as the at-risk indi-
 14 vidual.

15 (6) PERSONALLY IDENTIFIABLE INFORMA-
 16 TION.—The term “personally identifiable informa-
 17 tion” means—

18 (A) a home address, including primary res-
 19 idence or secondary residences;

20 (B) a home or personal mobile telephone
 21 number, or the direct telephone number of a
 22 Government-issued cell phone or private exten-
 23 sion in the chambers of an at-risk individual;

24 (C) a personal email address;

1 (D) the social security number, driver's li-
2 cense number, or home address displayed on
3 voter registration information;

4 (E) a bank account or credit or debit card
5 information;

6 (F) home or other address displayed on
7 property tax records or held by a Federal,
8 State, or local government agency of an at-risk
9 individual, including a secondary residence and
10 any investment property at which an at-risk in-
11 dividual resides for part of a year;

12 (G) license plate number or home address
13 displayed on vehicle registration information;

14 (H) identification of children of an at-risk
15 individual under the age of 18;

16 (I) full date of birth;

17 (J) a photograph of any vehicle that legibly
18 displays the license plate or a photograph of a
19 residence that legibly displays the residence ad-
20 dress;

21 (K) the name and address of a school or
22 day care facility attended by immediate family;
23 or

24 (L) the name and address of an employer
25 of immediate family.

1 (7) SOCIAL MEDIA.—The term “social media”
 2 means any online electronic medium, a live-chat sys-
 3 tem, or an electronic dating service—

4 (A) that primarily serves as a medium for
 5 users to interact with content generated by
 6 other third-party users of the medium;

7 (B) that enables users to create accounts
 8 or profiles specific to the medium or to import
 9 profiles from another medium; and

10 (C) that enables one or more users to gen-
 11 erate content that can be viewed by other third-
 12 party users of the medium.

13 (8) TRANSFER.—The term “transfer” means to
 14 sell, license, trade, or exchange for consideration the
 15 personally identifiable information of an at-risk indi-
 16 vidual or immediate family.

17 **SEC. 5. PROTECTING PERSONALLY IDENTIFIABLE INFOR-**
 18 **MATION IN PUBLIC RECORDS.**

19 (a) GOVERNMENT AGENCIES.—

20 (1) IN GENERAL.—Each at-risk individual
 21 may—

22 (A) file written notice of the status of the
 23 individual as an at-risk individual, for them-
 24 selves and immediate family, to each Govern-
 25 ment agency; and

1 (B) ask each Government agency described
2 in subparagraph (A) to mark as private their
3 personally identifiable information and that of
4 their immediate family.

5 (2) NO PUBLIC POSTING.—Government agen-
6 cies shall not publicly post or display publicly avail-
7 able content that includes personally identifiable in-
8 formation of an at-risk individual or immediate fam-
9 ily. Government agencies, upon receipt of a written
10 request in accordance with subsection (a)(1)(A) of
11 this section, shall remove the personally identifiable
12 information of the at-risk individual or immediate
13 family from publicly available content within 72
14 hours.

15 (3) EXCEPTIONS.—Nothing in this section shall
16 prohibit a Government agency from providing access
17 to records containing judges' personally identifiable
18 information to a third party if the third party pos-
19 sesses a signed release from the judge or a court
20 order, the entity is already subject to the require-
21 ments of title V of the Gramm-Leach-Bliley Act (15
22 U.S.C. 6801 et seq.), or the third party executes a
23 confidentiality agreement with the Government agen-
24 cy.

25 (b) STATE AND LOCAL GOVERNMENTS.—

1 (1) GRANT PROGRAM TO PREVENT DISCLOSURE
2 OF PERSONAL INFORMATION OF AT-RISK INDIVID-
3 UALS OR IMMEDIATE FAMILY.—

4 (A) AUTHORIZATION.—The Attorney Gen-
5 eral shall make grants to prevent the release of
6 personally identifiable information of at-risk in-
7 dividuals and immediate family (in this sub-
8 section referred to as “judges’ personally identi-
9 fiable information”) to the detriment of such
10 individuals or their families to an entity that—

11 (i) is—

12 (I) a State or unit of local gov-
13 ernment (as such terms are defined in
14 section 901 of the Omnibus Crime
15 Control and Safe Streets Act of 1968
16 (34 U.S.C. 10251)); or

17 (II) an agency of a State or unit
18 of local government; and

19 (ii) operates a State or local database
20 or registry that contains personally identi-
21 fiable information.

22 (B) APPLICATION.—An eligible entity seek-
23 ing a grant under this section shall submit to
24 the Attorney General an application at such
25 time, in such manner, and containing such in-

1 formation as the Attorney General may reason-
2 ably require.

3 (2) AUTHORIZATION OF APPROPRIATIONS.—

4 There is authorized to be appropriated such sums as
5 may be necessary to provide grants to entities de-
6 scribed in paragraph (1) to create or expand pro-
7 grams designed to protect judges' personally identifi-
8 able information, including through—

9 (A) the creation of programs to redact or
10 remove judges' personally identifiable informa-
11 tion, upon the request of an at-risk individual,
12 from public records in state agencies; these ef-
13 forts may include but are not limited to hiring
14 a third party to redact or remove judges' per-
15 sonally identifiable information from public
16 records;

17 (B) the expansion of existing programs
18 that the State may have enacted in an effort to
19 protect judges' personally identifiable informa-
20 tion;

21 (C) the development or improvement of
22 protocols, procedures, and policies to prevent
23 the release of judges' personally identifiable in-
24 formation;

1 (D) the defrayment of costs of modifying
2 or improving existing databases and registries
3 to ensure that judges' personally identifiable in-
4 formation is protected from release; and

5 (E) the development of confidential opt out
6 systems that will enable at-risk individuals to
7 make a single request to keep judges' personally
8 identifiable information out of multiple data-
9 bases or registries.

10 (3) REPORT.—

11 (A) IN GENERAL.—Not later than 1 year
12 after the date of enactment of this Act, and bi-
13 ennially thereafter, the Comptroller General of
14 the United States, shall submit to the Com-
15 mittee on the Judiciary of the Senate and the
16 Committee on the Judiciary of the House of
17 Representatives an annual report that in-
18 cludes—

19 (i) a detailed amount spent by States
20 and local governments on protection of
21 judges' personally identifiable information;
22 and

23 (ii) where the judges' personally iden-
24 tifiable information was found.

1 (B) STATES AND LOCAL GOVERNMENTS.—

2 States and local governments that receive funds
3 under this section shall submit to the Comp-
4 troller General a report on data described in
5 clauses (i) and (ii) of subparagraph (A) to be
6 included in the report required under that sub-
7 paragraph.

8 (c) DATA BROKERS AND OTHER BUSINESSES.—

9 (1) PROHIBITION.—

10 (A) DATA BROKERS.—It shall be unlawful
11 for a data broker to knowingly sell, license,
12 trade for consideration, or purchase personally
13 identifiable information of an at-risk individual
14 or immediate family.

15 (B) OTHER BUSINESSES.—No person,
16 business, or association shall publicly post or
17 publicly display on the internet personally iden-
18 tifiable information of an at-risk individual or
19 immediate family if the at-risk individual has
20 made a written request of that person, business,
21 or association to not disclose the personally
22 identifiable information of the at-risk individual
23 or immediate family.

24 (C) EXCEPTIONS.—The restriction in sub-
25 paragraph (B) shall not apply to—

1 (i) the display on the internet of the
2 personally identifiable information of an
3 at-risk individual or immediate family if
4 the information is relevant to and dis-
5 played as part of a news story, com-
6 mentary, editorial, or other speech on a
7 matter of public concern;

8 (ii) personally identifiable information
9 that the at-risk individual voluntarily pub-
10 lishes on the internet after the date of en-
11 actment of this Act; or

12 (iii) personally identifiable information
13 received from a Federal Government
14 source (or from an employee or agent of
15 the Federal Government).

16 (2) REQUIRED CONDUCT.—

17 (A) IN GENERAL.—After a person, busi-
18 ness, or association has received a written re-
19 quest from an at-risk individual to protect per-
20 sonally identifiable information of the at-risk in-
21 dividual or immediate family, that person, busi-
22 ness, or association shall—

23 (i) remove within 72 hours the per-
24 sonally identifiable information from the
25 internet and ensure that the information is

1 not made available on any website or sub-
2 subsidiary website controlled by that person,
3 business, or association; and

4 (ii) ensure that the personally identifi-
5 able information of the at-risk individual
6 or immediate family is not made available
7 on any website or subsidiary website con-
8 trolled by that person, business, or associa-
9 tion.

10 (B) TRANSFER.—After receiving an at-risk
11 individual’s written request, no person, busi-
12 ness, or association shall transfer the personally
13 identifiable information of the at-risk individual
14 or immediate family to any other person, busi-
15 ness, or association through any medium, ex-
16 cept where the at-risk individual’s or immediate
17 family member’s personally identifiable informa-
18 tion is relevant to and displayed as part of a
19 news story, commentary, editorial, or other
20 speech on a matter of public concern. The re-
21 striction on transfer shall also not apply to per-
22 sonally identifiable information that the at-risk
23 individual or immediate family voluntarily pub-
24 lishes on the internet after the date of enact-
25 ment of this Act.

1 (d) DELEGATION OF AUTHORITY.—

2 (1) IN GENERAL.—Upon written request of the
3 at-risk individual, the Director of the Administrative
4 Office of the United States Courts is authorized to
5 make any notice or request required or authorized
6 by this section on behalf of the at-risk individual.
7 The Director may delegate this authority under sec-
8 tion 602(d) of title 28, United States Code. Any no-
9 tice or request made under this subsection shall be
10 deemed to have been made by the at-risk individual
11 and compliant with the notice and request require-
12 ments of this section.

13 (2) LIST.—In lieu of individual notices or re-
14 quests, the Director may provide Government agen-
15 cies, State and local governments, data brokers, per-
16 sons, businesses, or associations with a list of at-risk
17 individuals and their immediate family for the pur-
18 pose of maintaining compliance with this section.
19 Such list shall be deemed to comply with individual
20 notice and request requirements of this section.

21 (e) REDRESS AND PENALTIES.—

22 (1) IN GENERAL.—An at-risk individual or im-
23 mediate family member whose personally identifiable
24 information is made public as a result of a violation
25 of this Act may bring an action seeking injunctive

1 or declaratory relief in any court of competent juris-
2 diction. If the court grants injunctive or declaratory
3 relief, the person, business, or association respon-
4 sible for the violation shall be required to pay the at-
5 risk individual's or immediate family member's costs
6 and reasonable attorney's fees.

7 (2) PENALTIES AND DAMAGES.—Upon a know-
8 ing and willful violation of any order granting in-
9 junctive or declarative relief obtained pursuant to
10 this subsection, the court issuing such order may—

11 (A) if the violator is a public entity, impose
12 a fine not exceeding \$4,000 and require the
13 payment of court costs and reasonable attor-
14 ney's fees;

15 (B) if the violator is a person, business, as-
16 sociation, or private agency, award damages to
17 the affected at-risk individual or immediate
18 family in an amount up to a maximum of 3
19 times the actual damages, but not less than
20 \$10,000, and require the payment of court
21 costs and reasonable attorney's fees.

22 **SEC. 6. TRAINING AND EDUCATION.**

23 There is authorized to be appropriated to the Federal
24 judiciary such sums as may be necessary for biannual judi-

1 cial security training for active, senior, or recalled Federal
2 judges and their immediate family, including—

3 (1) best practices for using social media and
4 other forms of online engagement and for maintain-
5 ing online privacy;

6 (2) home security program and maintenance;

7 (3) understanding removal programs and re-
8 quirements for personally identifiable information;

9 (4) any other judicial security training that the
10 United States Marshals Services and the Adminis-
11 trative Office of the United States Courts deter-
12 mines is relevant.

13 **SEC. 7. VULNERABILITY MANAGEMENT CAPABILITY.**

14 (a) AUTHORIZATION.—

15 (1) VULNERABILITY MANAGEMENT CAPA-
16 BILITY.—The Federal judiciary is authorized to per-
17 form all necessary functions consistent with the pro-
18 visions of this Act, and to support existing threat
19 management capabilities within the United States
20 Marshals Service and other relevant Federal law en-
21 forcement and security agencies. Such functions may
22 include—

23 (A) monitor the protection of at-risk indi-
24 viduals and judiciary assets;

1 (B) manage the monitoring of websites for
 2 personally identifiable information of at-risk in-
 3 dividuals or immediate family and remove or
 4 limit the publication of such information; and

5 (C) receive, review, and analyze complaints
 6 by at-risk individuals of threats, whether direct
 7 or indirect, and report to law enforcement part-
 8 ners.

9 (2) TECHNICAL AND CONFORMING AMEND-
 10 MENT.—Section 604(a) of title 28, United States
 11 Code is amended—

12 (A) in paragraph (23), by striking “and”
 13 at the end;

14 (B) by redesignating paragraph (24) as
 15 paragraph (25);

16 (C) by inserting after paragraph 23 the
 17 following:

18 “(24) Establish and administer a vulnerability
 19 management program in the judicial branch; and”.

20 (b) EXPANSION OF CAPABILITIES OF OFFICE OF
 21 PROTECTIVE INTELLIGENCE.—There is authorized to be
 22 appropriated such sums as may be necessary to the United
 23 States Marshals Service to expand the current capabilities
 24 of the Office of Protective Intelligence of the Judicial Se-
 25 curity Division to increase the workforce of the Office of

1 Protective Intelligence to include additional intelligence
2 analysts, United States deputy marshals, and any other
3 relevant personnel to ensure that the Office of Protective
4 Intelligence is ready and able to perform all necessary
5 functions, consistent with the provisions of this Act, in
6 order to anticipate and deter threats to the judiciary, in-
7 cluding—

8 (1) assigning personnel to State and major
9 urban area fusion and intelligence centers for the
10 specific purpose of identifying potential threats
11 against the judiciary, and coordination of responses
12 to potential threats.

13 (2) expanding the use of investigative analysts,
14 physical security specialists, and intelligence analysts
15 at the 94 judicial districts and territories to enhance
16 the management of local and distant threats and in-
17 vestigations; and

18 (3) increasing the number of United States
19 Marshal Service personnel for the protection of the
20 judicial function and assigned to protective oper-
21 ations and details for the judiciary.

22 (c) REPORT.—

23 (1) IN GENERAL.—Not later than one year
24 after the date of enactment of this Act, the Depart-
25 ment of Justice, in consultation with the Adminis-

1 trative Office of the United States Courts, shall sub-
2 mit to the Committee on the Judiciary of the Senate
3 and the Committee on the Judiciary of the House of
4 Representatives a report on the security of Federal
5 judges arising from the Federal prosecutions and
6 civil litigation.

7 (2) DESCRIPTION.—The report required under
8 paragraph (1) shall describe—

9 (A) the number and nature of threats and
10 assaults against at-risk individuals handling
11 prosecutions and other matters described in
12 paragraph (1) and the reporting requirements
13 and methods;

14 (B) the security measures that are in place
15 to protect the at-risk individuals handling pros-
16 ecutions described in paragraph (1), including
17 threat assessments, response procedures, avail-
18 ability of security systems and other devices,
19 firearms licensing such as deputations, and
20 other measures designed to protect the at-risk
21 individuals and immediate family of an at-risk
22 individual; and

23 (C) for each requirement, measure, or pol-
24 icy described in subparagraphs (A) and (B),
25 when the requirement, measure, or policy was

1 developed and who was responsible for devel-
2 oping and implementing the requirement, meas-
3 ure, or policy.

4 **SEC. 8. SEVERABILITY.**

5 If any provision of this Act or the application of such
6 provision to any person or circumstance is held to be un-
7 constitutional, the remainder of this Act and the applica-
8 tion of such provision to any person or circumstance shall
9 not be affected thereby.

10 **SEC. 9. EFFECTIVE DATE.**

11 This Act shall take effect upon the date of enactment
12 of this Act, except for subsections (b)(1), (c), and (e) of
13 section 5, which shall take effect on the date that is 120
14 days after the date of enactment of this Act.

○