

117TH CONGRESS  
1ST SESSION

# S. 2292

To require the Secretary of Homeland Security to study the potential consequences and benefits of amending the Computer Fraud and Abuse Act to allow private companies to take proportional actions in response to an unlawful network breach.

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## IN THE SENATE OF THE UNITED STATES

JUNE 24, 2021

Mr. DAINES (for himself and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To require the Secretary of Homeland Security to study the potential consequences and benefits of amending the Computer Fraud and Abuse Act to allow private companies to take proportional actions in response to an unlawful network breach.

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 “Study on Cyber-Attack  
5 Response Options Act”.

1 **SEC. 2. STUDY RELATING TO CONSEQUENCES AND BENE-**  
2 **FITS OF AMENDING THE CFAA.**

3 (a) STUDY.—The Secretary of Homeland Security, in  
4 consultation with other Federal agencies as appropriate,  
5 shall conduct a study on the potential benefits and risks  
6 of amending section 1030 of title 18, United States Code  
7 (commonly known as the “Computer Fraud and Abuse  
8 Act”), to allow private entities to take proportional actions  
9 in response to an unlawful network breach, subject to  
10 oversight and regulation by a designated Federal agency.

11 (b) REPORT.—

12 (1) IN GENERAL.—Not later than 180 days  
13 after the date of enactment of this Act, the Sec-  
14 retary of Homeland Security shall submit a report  
15 on the findings of the study conducted under sub-  
16 section (a), including any recommendations, to Con-  
17 gress.

18 (2) REQUIRED CONTENTS.—The report re-  
19 quired under paragraph (1) shall—

20 (A) address any impact on national secu-  
21 rity and foreign affairs; and

22 (B) include recommendations for—

23 (i) which Federal agency or agencies  
24 may authorize proportional actions by pri-  
25 vate entities;

- 1                   (ii) what level of certainty regarding  
2                   the identity of the attacker is needed be-  
3                   fore such actions would be authorized;
- 4                   (iii) which entities would be allowed to  
5                   take such actions and under what cir-  
6                   cumstances;
- 7                   (iv) what actions would be permis-  
8                   sible; and
- 9                   (v) what safeguards should be in  
10                  place.

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