

94TH CONGRESS  
1ST SESSION

**S. 1**

**IN THE SENATE OF THE UNITED STATES**

JANUARY 15, 1975

Mr. McCLELLAN (for himself and Mr. HRUSKA, Mr. BAYH, Mr. EASTLAND, Mr. FONG, Mr. GRIFFIN, Mr. MANSFIELD, Mr. MOSS, Mr. SCOTT of Pennsylvania, Mr. TAFT, and Mr. TOWER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

**A BILL**

To codify, revise, and reform title 18 of the United States Code; to make appropriate amendments to the Federal Rules of Criminal Procedure; to make conforming amendments to criminal provisions of other titles of the United States Code; and for other purposes.

1 *Be it enacted by the Senate and House of Representatives of the*  
2 *United States of America in Congress assembled, That this Act may*  
3 *be cited as the "Criminal Justice Reform Act of 1975".*

4 **TABLE OF CONTENTS**  
5 **FEDERAL CRIMINAL CODE**

PART	Page
I. GENERAL PROVISIONS AND PRINCIPLES.....	31
II. OFFENSES OF GENERAL APPLICABILITY.....	59
III. SENTENCES.....	181
IV. CRIMINAL JUSTICE ADMINISTRATION AND PROCEDURES.....	198
V. ANCILLARY CIVIL PROCEEDINGS.....	295

6 **PART I.—GENERAL PROVISIONS AND**  
7 **PRINCIPLES**

CHAPTER	Page
1. GENERAL PROVISIONS.....	31
2. JURISDICTION.....	43
3. CULPABLE STATES OF MIND.....	49
4. COMPLICITY.....	51
5. BARS AND DEFENSES.....	53

Subchapter	Page
<b>Chapter 1.—GENERAL PROVISIONS</b>	
A. Matters Relating to Purpose and Application.....	31
B. Matters Relating to Construction.....	32

II—O

1           “(B) fails to report promptly, to the agency authorizing  
2 him to possess or control such information, its loss, destruc-  
3 tion, or theft, or its communication to a person who is not  
4 authorized to receive it; or

5           “(C) intentionally fails to deliver it on demand to a federal  
6 public servant who is authorized to demand it; or

7           “(2) being in unauthorized possession or control of national  
8 defense information, he:

9           “(A) engages in conduct that causes its loss, destruction,  
10 or theft, or its communication to another person who is not  
11 authorized to receive it; or

12           “(B) fails to deliver it promptly to a federal public servant  
13 who is entitled to receive it.

14           “(b) GRADING.—An offense described in this section is a Class D  
15 felony.

16           “§ 1124. Disclosing Classified Information

17           “(a) OFFENSE.—A person is guilty of an offense, if, being or hav-  
18 ing been in authorized possession or control of classified information,  
19 or having obtained such information as a result of his being or having  
20 been a federal public servant, he communicates such information to a  
21 person who is not authorized to receive it.

22           “(b) EXCEPTIONS TO LIABILITY AS AN ACCOMPLICE, CONSPIRATOR, OR  
23 SOLICITOR.—A person who is not authorized to receive classified infor-  
24 mation is not subject to prosecution as an accomplice to an offense un-  
25 der this section, and is not subject to prosecution for conspiracy to  
26 commit or for solicitation to commit an offense under this section.

27           “(c) BAR TO PROSECUTION.—A prosecution under this section is  
28 barred unless:

29           “(1) at the time of the offense there existed, pursuant to a stat-  
30 ute or an executive order, or a regulation or rule issued pursuant  
31 thereto:

32           “(A) a government agency responsible for insuring that  
33 other government agencies classify and maintain as classi-  
34 fied only such information as is lawfully subject to classifica-  
35 tion; and

36           “(B) a review procedure through which the defendant  
37 could obtain review, by the government agency described in  
38 subparagraph (A), of the lawfulness of the classification of  
39 the information; and

40           “(2) prior to the return of the indictment or the filing of the  
41 information, the head of the government agency classifying the

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1 information, the head of the government agency described in sub-  
 2 paragraph (A) of paragraph (1), and the Attorney General  
 3 jointly certify to the court that the information was lawfully  
 4 subject to classification at the time of the offense.

5 “(d) AFFIRMATIVE DEFENSES.—It is an affirmative defense to a pros-  
 6 ecution under this section that:

7 “(1) the information was communicated only to a regularly  
 8 constituted subcommittee, committee, or joint committee of Con-  
 9 gress, pursuant to lawful demand; or

10 “(2) the defendant had attempted to obtain the declassification  
 11 of the information and had exhausted all administrative remedies  
 12 arising out of the review procedure described in subsection (c) (1),  
 13 and the information:

14 “(A) was not communicated to an agent of a foreign power;

15 “(B) was not communicated in exchange for anything of  
 16 of value; and

17 “(C) was not lawfully subject to classification at the time  
 18 of the offense.

19 “(e) DEFENSE PRECLUDED.—It is not a defense to a prosecution under  
 20 this section, except as provided in subsection (d) (2), that the infor-  
 21 mation was not lawfully subject to classification at the time of the  
 22 offense.

23 “(f) GRADING.—An offense described in this section is:

24 “(1) a Class D felony if the person to whom the information  
 25 is communicated is an agent of a foreign power;

26 “(2) a Class E felony in any other case.

27 **“§ 1125. Unlawfully Obtaining Classified Information**

28 “(a) OFFENSE.—A person is guilty of an offense if, being an agent  
 29 of a foreign power, he obtains or collects classified information that,  
 30 in fact, he is not authorized to receive.

31 “(b) DEFENSE PRECLUDED.—It is not a defense to a prosecution under  
 32 this section that the information was not lawfully subject to classifi-  
 33 cation at the time of the offense.

34 “(c) GRADING.—An offense described in this section is a Class D  
 35 felony.

36 **“§ 1126. Failing to Register as a Person Trained in a Foreign  
 37 Espionage System**

38 “(a) OFFENSE.—A person is guilty of an offense if he:

39 “(1) fails to register with the Attorney General as required  
 40 by section 2 of the Act of August 1, 1956 (50 U.S.C. 851) (relating