

1 SENATE JOINT RESOLUTION NO. 19

2 INTRODUCED BY ELLIOTT, CAMPBELL, COONEY, ELLINGSON, FUREY, HARRINGTON, KAUFMANN,
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5 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
6 MONTANA SUPPORTING THE MONTANA CONSTITUTION, THE UNITED STATES CONSTITUTION, AND
7 THE BILL OF RIGHTS; ENCOURAGING VARIOUS ACTIONS IN SUPPORT OF FIGHTING TERRORISM AND
8 PROTECTING CIVIL RIGHTS AND CIVIL LIBERTIES; REQUESTING THE ATTORNEY GENERAL OF
9 MONTANA TO COMPILE AND DISSEMINATE RELEVANT INFORMATION REGARDING ACTIONS TAKEN
10 BY THE FEDERAL GOVERNMENT UNDER THE USA PATRIOT ACT; AND ENCOURAGING MONTANA'S
11 CONGRESSIONAL DELEGATION TO SUPPORT AND ENSURE THE CIVIL RIGHTS OF ALL MONTANANS
12 AND CITIZENS OF THE UNITED STATES, WHICH INCLUDES ALLOWING THE USA PATRIOT ACT TO
13 EXPIRE.

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15 WHEREAS, the citizens of Montana recognize the Constitution of the United States as our charter of
16 liberty and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including the
17 freedoms of religion, speech, assembly, and privacy; and

18 WHEREAS, each of Montana's duly elected public servants has sworn to defend and uphold the United
19 States Constitution and the Constitution of the State of Montana; and

20 WHEREAS, the citizens of Montana denounce and condemn all acts of terrorism by any entity, wherever
21 the acts occur; and

22 WHEREAS, terrorist attacks against Americans, such as those that occurred on September 11, 2001,
23 have necessitated the crafting of effective laws to protect citizens of the United States and others from terrorist
24 attacks; and

25 WHEREAS, any new security measures of federal, state, and local governments should be carefully
26 designed and employed to enhance public safety without infringing on the civil liberties and rights of innocent
27 citizens of Montana and the United States; and

28 WHEREAS, certain provisions of the "Uniting and Strengthening America by Providing Appropriate Tools
29 Required to Intercept and Obstruct Terrorism Act of 2001", also known as the USA PATRIOT Act, allow the
30 federal government to more liberally detain and investigate citizens and to engage in surveillance activities that

1 may violate or offend the rights and liberties guaranteed by our state and federal constitutions.

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3 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
4 THE STATE OF MONTANA:

5 That the 59th Montana Legislature supports the government of the United States in its campaign against
6 terrorism and affirms the commitment of the United States that the campaign not be waged at the expense of
7 essential civil rights and liberties of citizens of this country that are protected in the United States Constitution
8 and the Bill of Rights.

9 BE IT FURTHER RESOLVED, that it is the policy of the citizens of Montana to oppose any portion of
10 the USA PATRIOT Act that violates the rights and liberties guaranteed under the Montana Constitution or the
11 United States Constitution, including the Bill of Rights.

12 BE IT FURTHER RESOLVED, that in accordance with Montana state policy, in the absence of
13 reasonable suspicion of criminal activity under Montana law, the 59th Montana Legislature exhorts agents and
14 instrumentalities of this state to not:

15 (1) initiate or participate in or assist or cooperate with an inquiry, investigation, surveillance, or detention
16 under the USA PATRIOT Act if the action violates constitutionally guaranteed civil rights or civil liberties;

17 (2) record, file, or share intelligence information concerning a person or organization, including library
18 lending and research records, book and video store sales and rental records, medical records, financial records,
19 student records, and other personal data, even if authorized under the USA PATRIOT Act, if the action violates
20 constitutionally guaranteed civil rights or civil liberties; or

21 (3) retain any of the intelligence information described in subsections (1) and (2) of this clause if the
22 information violates constitutionally guaranteed civil rights or civil liberties.

23 BE IT FURTHER RESOLVED, that the Attorney General of Montana is encouraged to review intelligence
24 information currently held by the state, assess the legality and appropriateness of holding the information under
25 the United States Constitution and Montana Constitution, and permanently dispose of all such information to
26 which there is not attached a reasonable suspicion of criminal activity.

27 BE IT FURTHER RESOLVED, that the 59th Montana Legislature admonishes every agency and
28 instrumentality of the state to not:

29 (1) use state resources or institutions for the enforcement of federal immigration matters that are the
30 responsibility of the federal government;

1 (2) collect or maintain information about the political, religious, or social views, associations, or activities
2 of any individual, group, association, organization, corporation, business, or partnership unless the information
3 directly relates to an investigation of criminal activities and there are reasonable grounds to suspect that the
4 subject of the information was, is, or may be involved in criminal conduct; or

5 (3) engage in racial profiling.

6 BE IT FURTHER RESOLVED, that state and local law enforcement agencies should not use race,
7 religion, ethnicity, or national origin as factors in selecting individuals to subject to investigatory activities, except
8 when seeking to apprehend a specific suspect whose race, religion, ethnicity, or national origin is part of the
9 description of the suspect.

10 BE IT FURTHER RESOLVED, that the 59th Montana Legislature requests:

11 (1) public schools and institutions of higher learning within Montana to provide notice to each individual
12 whose education records have been obtained by law enforcement agents pursuant to section 507 of the USA
13 PATRIOT Act; and

14 (2) each public library within Montana to post in a prominent place within the library a notice to library
15 users as follows: "WARNING: Under Section 215 of the federal USA PATRIOT Act (Public Law 107-56), records
16 of the books and other material you borrow from this library may be obtained by federal agents. Federal law
17 prohibits librarians from informing you if records about you have been obtained by federal agents. Questions
18 about the law and policy that allows federal agents to obtain and use information about your activities in this
19 library should be directed to: U.S. Attorney General, Department of Justice, Washington, DC 20530".

20 BE IT FURTHER RESOLVED, that the 59th Montana Legislature encourages the Attorney General of
21 Montana to periodically seek from federal authorities the following information in a form that facilitates an
22 assessment of the effect of federal antiterrorism efforts on the residents of Montana:

23 (1) the name of each resident of Montana who has been arrested or otherwise detained by federal
24 authorities as a result of terrorism investigations since September 11, 2001, the location of each detainee, the
25 circumstances that led to each detention, the charges, if any, lodged against each detainee, and the name of
26 counsel, if any, representing each detainee;

27 (2) the number of search warrants that have been executed in Montana pursuant to section 213 of the
28 USA PATRIOT Act and without notice to the subject of the warrant;

29 (3) the extent of electronic surveillance carried out in Montana under powers granted in the USA
30 PATRIOT Act;

1 (4) the extent to which federal authorities monitor political meetings, religious gatherings, or other
2 activities within Montana that are protected by the First Amendment;

3 (5) the number of times that education records have been obtained from public schools and institutions
4 of higher learning in Montana under section 507 of the USA PATRIOT Act;

5 (6) the number of times that library records have been obtained from libraries in Montana under section
6 215 or section 505 of the USA PATRIOT Act; and

7 (7) the number of times that records of the books purchased by store patrons from bookstores in
8 Montana have been obtained under section 215 of the USA PATRIOT Act.

9 BE IT FURTHER RESOLVED, that the 59th Montana Legislature requests the Attorney General of
10 Montana to compile and transmit to each member of the Legislature, at least once every 6 months, a summary
11 of the information obtained pursuant to the legislative requests made in this resolution and, based on the
12 information and any other relevant information, to include an assessment of the effect of federal antiterrorism
13 efforts on the residents of Montana.

14 BE IT FURTHER RESOLVED, that the 59th Montana Legislature desires that all public libraries adopt
15 policies that ensure the regular destruction of records, when the records are no longer needed, that may be used
16 to identify the name of a book borrower or the name of any Internet user.

17 BE IT FURTHER RESOLVED, that in order to protect intellectual privacy rights, the 59th Montana
18 Legislature advises all persons in local businesses and institutions, particularly booksellers, to refrain whenever
19 possible from keeping records that can be used to identify the name of any purchaser and to regularly destroy
20 sales records maintained by the business or institution.

21 BE IT FURTHER RESOLVED, that the 59th Montana Legislature urges the Montana delegation in the
22 United States Congress to:

23 (1) correct provisions in the USA PATRIOT Act and other administrative measures that infringe on civil
24 liberties by supporting the sunset provisions of the USA PATRIOT Act, slated to be reviewed by Congress in
25 2005, and ultimately allow the USA PATRIOT Act to expire; and

26 (2) support passage of the Security and Freedom Ensured Act of 2003 and the End Racial Profiling
27 Act of 2004.

28 BE IT FURTHER RESOLVED, that the 59th Montana Legislature urges the Montana Congressional
29 Delegation to vigorously oppose any pending and all future federal legislation if the legislation infringes on the
30 civil rights and civil liberties of American citizens. Federal legislation that the Montana Congressional Delegation

1 is encouraged to oppose includes but is not limited to the Domestic Security Enhancement Act of 2003, also
2 known as Patriot Act II.

3 BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to President
4 George W. Bush, the Attorney General of the United States, Governor Brian Schweitzer, Senator Max Baucus,
5 Senator Conrad Burns, and Representative Dennis Rehberg.

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