

## Calendar No. 87

114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**H. R. 2048**

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IN THE SENATE OF THE UNITED STATES

MAY 14, 2015

Received; read the first time

MAY 18, 2015

Read the second time and placed on the calendar

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**AN ACT**

To reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, and criminal purposes, and for other purposes.

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; TABLE OF CONTENTS.**

4        (a) SHORT TITLE.—This Act may be cited as the  
5 “Uniting and Strengthening America by Fulfilling Rights  
6 and Ensuring Effective Discipline Over Monitoring Act of  
7 2015” or the “USA FREEDOM Act of 2015”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.  
 Sec. 2. Amendments to the Foreign Intelligence Surveillance Act of 1978.

TITLE I—FISA BUSINESS RECORDS REFORMS

- Sec. 101. Additional requirements for call detail records.  
 Sec. 102. Emergency authority.  
 Sec. 103. Prohibition on bulk collection of tangible things.  
 Sec. 104. Judicial review.  
 Sec. 105. Liability protection.  
 Sec. 106. Compensation for assistance.  
 Sec. 107. Definitions.  
 Sec. 108. Inspector General reports on business records orders.  
 Sec. 109. Effective date.  
 Sec. 110. Rule of construction.

TITLE II—FISA PEN REGISTER AND TRAP AND TRACE DEVICE  
 REFORM

- Sec. 201. Prohibition on bulk collection.  
 Sec. 202. Privacy procedures.

TITLE III—FISA ACQUISITIONS TARGETING PERSONS OUTSIDE  
 THE UNITED STATES REFORMS

- Sec. 301. Limits on use of unlawfully obtained information.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT  
 REFORMS

- Sec. 401. Appointment of amicus curiae.  
 Sec. 402. Declassification of decisions, orders, and opinions.

TITLE V—NATIONAL SECURITY LETTER REFORM

- Sec. 501. Prohibition on bulk collection.  
 Sec. 502. Limitations on disclosure of national security letters.  
 Sec. 503. Judicial review.

TITLE VI—FISA TRANSPARENCY AND REPORTING  
 REQUIREMENTS

- Sec. 601. Additional reporting on orders requiring production of business records; business records compliance reports to Congress.  
 Sec. 602. Annual reports by the Government.  
 Sec. 603. Public reporting by persons subject to FISA orders.  
 Sec. 604. Reporting requirements for decisions, orders, and opinions of the Foreign Intelligence Surveillance Court and the Foreign Intelligence Surveillance Court of Review.  
 Sec. 605. Submission of reports under FISA.

TITLE VII—ENHANCED NATIONAL SECURITY PROVISIONS

- Sec. 701. Emergencies involving non-United States persons.

- Sec. 702. Preservation of treatment of non-United States persons traveling outside the United States as agents of foreign powers.
- Sec. 703. Improvement to investigations of international proliferation of weapons of mass destruction.
- Sec. 704. Increase in penalties for material support of foreign terrorist organizations.
- Sec. 705. Sunsets.

TITLE VIII—SAFETY OF MARITIME NAVIGATION AND NUCLEAR  
TERRORISM CONVENTIONS IMPLEMENTATION

Subtitle A—Safety of Maritime Navigation

- Sec. 801. Amendment to section 2280 of title 18, United States Code.
- Sec. 802. New section 2280a of title 18, United States Code.
- Sec. 803. Amendments to section 2281 of title 18, United States Code.
- Sec. 804. New section 2281a of title 18, United States Code.
- Sec. 805. Ancillary measure.

Subtitle B—Prevention of Nuclear Terrorism

- Sec. 811. New section 2332i of title 18, United States Code.
- Sec. 812. Amendment to section 831 of title 18, United States Code.

1 **SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE**  
2 **SURVEILLANCE ACT OF 1978.**

3 Except as otherwise expressly provided, whenever in  
4 this Act an amendment or repeal is expressed in terms  
5 of an amendment to, or a repeal of, a section or other  
6 provision, the reference shall be considered to be made to  
7 a section or other provision of the Foreign Intelligence  
8 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

9 **TITLE I—FISA BUSINESS**  
10 **RECORDS REFORMS**

11 **SEC. 101. ADDITIONAL REQUIREMENTS FOR CALL DETAIL**  
12 **RECORDS.**

13 (a) APPLICATION.—Section 501(b)(2) (50 U.S.C.  
14 1861(b)(2)) is amended—

15 (1) in subparagraph (A)—

1           (A) in the matter preceding clause (i), by  
2 striking “a statement” and inserting “in the  
3 case of an application other than an application  
4 described in subparagraph (C) (including an ap-  
5 plication for the production of call detail  
6 records other than in the manner described in  
7 subparagraph (C)), a statement”; and

8           (B) in clause (iii), by striking “; and” and  
9 inserting a semicolon;

10          (2) by redesignating subparagraphs (A) and  
11 (B) as subparagraphs (B) and (D), respectively; and

12          (3) by inserting after subparagraph (B) (as so  
13 redesignated) the following new subparagraph:

14           “(C) in the case of an application for the  
15 production on an ongoing basis of call detail  
16 records created before, on, or after the date of  
17 the application relating to an authorized inves-  
18 tigation (other than a threat assessment) con-  
19 ducted in accordance with subsection (a)(2) to  
20 protect against international terrorism, a state-  
21 ment of facts showing that—

22           “(i) there are reasonable grounds to  
23 believe that the call detail records sought  
24 to be produced based on the specific selec-

1           tion term required under subparagraph (A)  
2           are relevant to such investigation; and

3           “(ii) there is a reasonable, articulable  
4           suspicion that such specific selection term  
5           is associated with a foreign power engaged  
6           in international terrorism or activities in  
7           preparation therefor, or an agent of a for-  
8           eign power engaged in international ter-  
9           rorism or activities in preparation therefor;  
10          and”.

11          (b)   ORDER.—Section   501(c)(2)   (50   U.S.C.  
12 1861(c)(2)) is amended—

13           (1) in subparagraph (D), by striking “; and”  
14           and inserting a semicolon;

15           (2) in subparagraph (E), by striking the period  
16           and inserting “; and”; and

17           (3) by adding at the end the following new sub-  
18           paragraph:

19           “(F) in the case of an application de-  
20           scribed in subsection (b)(2)(C), shall—

21           “(i) authorize the production on a  
22           daily basis of call detail records for a pe-  
23           riod not to exceed 180 days;

24           “(ii) provide that an order for such  
25           production may be extended upon applica-

1           tion under subsection (b) and the judicial  
2           finding under paragraph (1) of this sub-  
3           section;

4           “(iii) provide that the Government  
5           may require the prompt production of a  
6           first set of call detail records using the  
7           specific selection term that satisfies the  
8           standard required under subsection  
9           (b)(2)(C)(ii);

10          “(iv) provide that the Government  
11          may require the prompt production of a  
12          second set of call detail records using ses-  
13          sion-identifying information or a telephone  
14          calling card number identified by the spe-  
15          cific selection term used to produce call de-  
16          tail records under clause (iii);

17          “(v) provide that, when produced,  
18          such records be in a form that will be use-  
19          ful to the Government;

20          “(vi) direct each person the Govern-  
21          ment directs to produce call detail records  
22          under the order to furnish the Government  
23          forthwith all information, facilities, or  
24          technical assistance necessary to accom-  
25          plish the production in such a manner as

1 will protect the secrecy of the production  
2 and produce a minimum of interference  
3 with the services that such person is pro-  
4 viding to each subject of the production;  
5 and

6 “(vii) direct the Government to—

7 “(I) adopt minimization proce-  
8 dures that require the prompt de-  
9 struction of all call detail records pro-  
10 duced under the order that the Gov-  
11 ernment determines are not foreign  
12 intelligence information; and

13 “(II) destroy all call detail  
14 records produced under the order as  
15 prescribed by such procedures.”.

16 **SEC. 102. EMERGENCY AUTHORITY.**

17 (a) **AUTHORITY.**—Section 501 (50 U.S.C. 1861) is  
18 amended by adding at the end the following new sub-  
19 section:

20 “(i) **EMERGENCY AUTHORITY FOR PRODUCTION OF**  
21 **TANGIBLE THINGS.**—

22 “(1) Notwithstanding any other provision of  
23 this section, the Attorney General may require the  
24 emergency production of tangible things if the Attor-  
25 ney General—

1           “(A) reasonably determines that an emer-  
2           gency situation requires the production of tan-  
3           gible things before an order authorizing such  
4           production can with due diligence be obtained;

5           “(B) reasonably determines that the fac-  
6           tual basis for the issuance of an order under  
7           this section to approve such production of tan-  
8           gible things exists;

9           “(C) informs, either personally or through  
10          a designee, a judge having jurisdiction under  
11          this section at the time the Attorney General  
12          requires the emergency production of tangible  
13          things that the decision has been made to em-  
14          ploy the authority under this subsection; and

15          “(D) makes an application in accordance  
16          with this section to a judge having jurisdiction  
17          under this section as soon as practicable, but  
18          not later than 7 days after the Attorney Gen-  
19          eral requires the emergency production of tan-  
20          gible things under this subsection.

21          “(2) If the Attorney General requires the emer-  
22          gency production of tangible things under paragraph  
23          (1), the Attorney General shall require that the  
24          minimization procedures required by this section for  
25          the issuance of a judicial order be followed.



1           “(3) In the absence of a judicial order approv-  
2           ing the production of tangible things under this sub-  
3           section, the production shall terminate when the in-  
4           formation sought is obtained, when the application  
5           for the order is denied, or after the expiration of 7  
6           days from the time the Attorney General begins re-  
7           quiring the emergency production of such tangible  
8           things, whichever is earliest.

9           “(4) A denial of the application made under  
10          this subsection may be reviewed as provided in sec-  
11          tion 103.

12          “(5) If such application for approval is denied,  
13          or in any other case where the production of tangible  
14          things is terminated and no order is issued approv-  
15          ing the production, no information obtained or evi-  
16          dence derived from such production shall be received  
17          in evidence or otherwise disclosed in any trial, hear-  
18          ing, or other proceeding in or before any court,  
19          grand jury, department, office, agency, regulatory  
20          body, legislative committee, or other authority of the  
21          United States, a State, or a political subdivision  
22          thereof, and no information concerning any United  
23          States person acquired from such production shall  
24          subsequently be used or disclosed in any other man-  
25          ner by Federal officers or employees without the

1 consent of such person, except with the approval of  
2 the Attorney General if the information indicates a  
3 threat of death or serious bodily harm to any per-  
4 son.

5 “(6) The Attorney General shall assess compli-  
6 ance with the requirements of paragraph (5).”.

7 (b) CONFORMING AMENDMENT.—Section 501(d) (50  
8 U.S.C. 1861(d)) is amended—

9 (1) in paragraph (1)—

10 (A) in the matter preceding subparagraph  
11 (A), by striking “pursuant to an order” and in-  
12 serting “pursuant to an order issued or an  
13 emergency production required”;

14 (B) in subparagraph (A), by striking “such  
15 order” and inserting “such order or such emer-  
16 gency production”; and

17 (C) in subparagraph (B), by striking “the  
18 order” and inserting “the order or the emer-  
19 gency production”; and

20 (2) in paragraph (2)—

21 (A) in subparagraph (A), by striking “an  
22 order” and inserting “an order or emergency  
23 production”; and

1 (B) in subparagraph (B), by striking “an  
2 order” and inserting “an order or emergency  
3 production”.

4 **SEC. 103. PROHIBITION ON BULK COLLECTION OF TAN-**  
5 **GIBLE THINGS.**

6 (a) APPLICATION.—Section 501(b)(2) (50 U.S.C.  
7 1861(b)(2)), as amended by section 101(a) of this Act,  
8 is further amended by inserting before subparagraph (B),  
9 as redesignated by such section 101(a) of this Act, the  
10 following new subparagraph:

11 “(A) a specific selection term to be used as  
12 the basis for the production of the tangible  
13 things sought;”.

14 (b) ORDER.—Section 501(c) (50 U.S.C. 1861(c)) is  
15 amended—

16 (1) in paragraph (2)(A), by striking the semi-  
17 colon and inserting “, including each specific selec-  
18 tion term to be used as the basis for the produc-  
19 tion;”; and

20 (2) by adding at the end the following new  
21 paragraph:

22 “(3) No order issued under this subsection may  
23 authorize the collection of tangible things without  
24 the use of a specific selection term that meets the  
25 requirements of subsection (b)(2).”.

1 **SEC. 104. JUDICIAL REVIEW.**

2 (a) MINIMIZATION PROCEDURES.—

3 (1) JUDICIAL REVIEW.—Section 501(c)(1) (50  
4 U.S.C. 1861(c)(1)) is amended by inserting after  
5 “subsections (a) and (b)” the following: “and that  
6 the minimization procedures submitted in accord-  
7 ance with subsection (b)(2)(D) meet the definition of  
8 minimization procedures under subsection (g)”.

9 (2) RULE OF CONSTRUCTION.—Section 501(g)  
10 (50 U.S.C. 1861(g)) is amended by adding at the  
11 end the following new paragraph:

12 “(3) RULE OF CONSTRUCTION.—Nothing in  
13 this subsection shall limit the authority of the court  
14 established under section 103(a) to impose addi-  
15 tional, particularized minimization procedures with  
16 regard to the production, retention, or dissemination  
17 of nonpublicly available information concerning  
18 unconsenting United States persons, including addi-  
19 tional, particularized procedures related to the de-  
20 struction of information within a reasonable time pe-  
21 riod.”.

22 (3) TECHNICAL AND CONFORMING AMEND-  
23 MENT.—Section 501(g)(1) (50 U.S.C. 1861(g)(1)) is  
24 amended—

25 (A) by striking “Not later than 180 days  
26 after the date of the enactment of the USA PA-

1 TRIOT Improvement and Reauthorization Act  
2 of 2005, the” and inserting “The”; and

3 (B) by inserting after “adopt” the fol-  
4 lowing: “, and update as appropriate,”.

5 (b) ORDERS.—Section 501(f)(2) (50 U.S.C.  
6 1861(f)(2)) is amended—

7 (1) in subparagraph (A)(i)—

8 (A) by striking “that order” and inserting  
9 “the production order or any nondisclosure  
10 order imposed in connection with the produc-  
11 tion order”; and

12 (B) by striking the second sentence; and

13 (2) in subparagraph (C)—

14 (A) by striking clause (ii); and

15 (B) by redesignating clause (iii) as clause  
16 (ii).

17 **SEC. 105. LIABILITY PROTECTION.**

18 Section 501(e) (50 U.S.C. 1861(e)) is amended to  
19 read as follows:

20 “(e)(1) No cause of action shall lie in any court  
21 against a person who—

22 “(A) produces tangible things or provides infor-  
23 mation, facilities, or technical assistance in accord-  
24 ance with an order issued or an emergency produc-  
25 tion required under this section; or

1           “(B) otherwise provides technical assistance to  
2           the Government under this section or to implement  
3           the amendments made to this section by the USA  
4           FREEDOM Act of 2015.

5           “(2) A production or provision of information, facili-  
6           ties, or technical assistance described in paragraph (1)  
7           shall not be deemed to constitute a waiver of any privilege  
8           in any other proceeding or context.”.

9           **SEC. 106. COMPENSATION FOR ASSISTANCE.**

10          Section 501 (50 U.S.C. 1861), as amended by section  
11          102 of this Act, is further amended by adding at the end  
12          the following new subsection:

13          “(j) COMPENSATION.—The Government shall com-  
14          pensate a person for reasonable expenses incurred for—

15                 “(1) producing tangible things or providing in-  
16                 formation, facilities, or assistance in accordance with  
17                 an order issued with respect to an application de-  
18                 scribed in subsection (b)(2)(C) or an emergency pro-  
19                 duction under subsection (i) that, to comply with  
20                 subsection (i)(1)(D), requires an application de-  
21                 scribed in subsection (b)(2)(C); or

22                 “(2) otherwise providing technical assistance to  
23                 the Government under this section or to implement  
24                 the amendments made to this section by the USA  
25                 FREEDOM Act of 2015.”.

1 **SEC. 107. DEFINITIONS.**

2 Section 501 (50 U.S.C. 1861), as amended by section  
3 106 of this Act, is further amended by adding at the end  
4 the following new subsection:

5 “(k) DEFINITIONS.—In this section:

6 “(1) IN GENERAL.—The terms ‘foreign power’,  
7 ‘agent of a foreign power’, ‘international terrorism’,  
8 ‘foreign intelligence information’, ‘Attorney General’,  
9 ‘United States person’, ‘United States’, ‘person’, and  
10 ‘State’ have the meanings provided those terms in  
11 section 101.

12 “(2) ADDRESS.—The term ‘address’ means a  
13 physical address or electronic address, such as an  
14 electronic mail address or temporarily assigned net-  
15 work address (including an Internet protocol ad-  
16 dress).

17 “(3) CALL DETAIL RECORD.—The term ‘call de-  
18 tail record’—

19 “(A) means session-identifying information  
20 (including an originating or terminating tele-  
21 phone number, an International Mobile Sub-  
22 scriber Identity number, or an International  
23 Mobile Station Equipment Identity number), a  
24 telephone calling card number, or the time or  
25 duration of a call; and

26 “(B) does not include—

1 “(i) the contents (as defined in section  
2 2510(8) of title 18, United States Code) of  
3 any communication;

4 “(ii) the name, address, or financial  
5 information of a subscriber or customer; or

6 “(iii) cell site location or global posi-  
7 tioning system information.

8 “(4) SPECIFIC SELECTION TERM.—

9 “(A) TANGIBLE THINGS.—

10 “(i) IN GENERAL.—Except as pro-  
11 vided in subparagraph (B), a ‘specific se-  
12 lection term’—

13 “(I) is a term that specifically  
14 identifies a person, account, address,  
15 or personal device, or any other spe-  
16 cific identifier; and

17 “(II) is used to limit, to the  
18 greatest extent reasonably practicable,  
19 the scope of tangible things sought  
20 consistent with the purpose for seek-  
21 ing the tangible things.

22 “(ii) LIMITATION.—A specific selec-  
23 tion term under clause (i) does not include  
24 an identifier that does not limit, to the  
25 greatest extent reasonably practicable, the



1 scope of tangible things sought consistent  
2 with the purpose for seeking the tangible  
3 things, such as an identifier that—

4 “(I) identifies an electronic com-  
5 munication service provider (as that  
6 term is defined in section 701) or a  
7 provider of remote computing service  
8 (as that term is defined in section  
9 2711 of title 18, United States Code),  
10 when not used as part of a specific  
11 identifier as described in clause (i),  
12 unless the provider is itself a subject  
13 of an authorized investigation for  
14 which the specific selection term is  
15 used as the basis for the production;  
16 or

17 “(II) identifies a broad geo-  
18 graphic region, including the United  
19 States, a city, a county, a State, a zip  
20 code, or an area code, when not used  
21 as part of a specific identifier as de-  
22 scribed in clause (i).

23 “(iii) RULE OF CONSTRUCTION.—  
24 Nothing in this paragraph shall be con-  
25 strued to preclude the use of multiple

1 terms or identifiers to meet the require-  
2 ments of clause (i).

3 “(B) CALL DETAIL RECORD APPLICA-  
4 TIONS.—For purposes of an application sub-  
5 mitted under subsection (b)(2)(C), the term  
6 ‘specific selection term’ means a term that spe-  
7 cifically identifies an individual, account, or per-  
8 sonal device.”.

9 **SEC. 108. INSPECTOR GENERAL REPORTS ON BUSINESS**  
10 **RECORDS ORDERS.**

11 Section 106A of the USA PATRIOT Improvement  
12 and Reauthorization Act of 2005 (Public Law 109–177;  
13 120 Stat. 200) is amended—

14 (1) in subsection (b)—

15 (A) in paragraph (1), by inserting “and  
16 calendar years 2012 through 2014” after  
17 “2006”;

18 (B) by striking paragraphs (2) and (3);

19 (C) by redesignating paragraphs (4) and  
20 (5) as paragraphs (2) and (3), respectively; and

21 (D) in paragraph (3) (as so redesign-  
22 ated)—

23 (i) by striking subparagraph (C) and  
24 inserting the following new subparagraph:

1           “(C) with respect to calendar years 2012  
2 through 2014, an examination of the minimiza-  
3 tion procedures used in relation to orders under  
4 section 501 of the Foreign Intelligence Surveil-  
5 lance Act of 1978 (50 U.S.C. 1861) and wheth-  
6 er the minimization procedures adequately pro-  
7 tect the constitutional rights of United States  
8 persons;” and

9           (ii) in subparagraph (D), by striking  
10           “(as such term is defined in section 3(4) of  
11 the National Security Act of 1947 (50  
12 U.S.C. 401a(4))”;

13           (2) in subsection (c), by adding at the end the  
14 following new paragraph:

15           “(3) CALENDAR YEARS 2012 THROUGH 2014.—  
16 Not later than 1 year after the date of enactment  
17 of the USA FREEDOM Act of 2015, the Inspector  
18 General of the Department of Justice shall submit  
19 to the Committee on the Judiciary and the Select  
20 Committee on Intelligence of the Senate and the  
21 Committee on the Judiciary and the Permanent Se-  
22 lect Committee on Intelligence of the House of Rep-  
23 resentatives a report containing the results of the  
24 audit conducted under subsection (a) for calendar  
25 years 2012 through 2014.”;

1           (3) by redesignating subsections (d) and (e) as  
2 subsections (e) and (f), respectively;

3           (4) by inserting after subsection (c) the fol-  
4 lowing new subsection:

5           “(d) INTELLIGENCE ASSESSMENT.—

6           “(1) IN GENERAL.—For the period beginning  
7 on January 1, 2012, and ending on December 31,  
8 2014, the Inspector General of the Intelligence Com-  
9 munity shall assess—

10           “(A) the importance of the information ac-  
11 quired under title V of the Foreign Intelligence  
12 Surveillance Act of 1978 (50 U.S.C. 1861 et  
13 seq.) to the activities of the intelligence commu-  
14 nity;

15           “(B) the manner in which that information  
16 was collected, retained, analyzed, and dissemi-  
17 nated by the intelligence community;

18           “(C) the minimization procedures used by  
19 elements of the intelligence community under  
20 such title and whether the minimization proce-  
21 dures adequately protect the constitutional  
22 rights of United States persons; and

23           “(D) any minimization procedures pro-  
24 posed by an element of the intelligence commu-  
25 nity under such title that were modified or de-

1           nied by the court established under section  
2           103(a) of such Act (50 U.S.C. 1803(a)).

3           “(2) SUBMISSION DATE FOR ASSESSMENT.—

4           Not later than 180 days after the date on which the  
5           Inspector General of the Department of Justice sub-  
6           mits the report required under subsection (c)(3), the  
7           Inspector General of the Intelligence Community  
8           shall submit to the Committee on the Judiciary and  
9           the Select Committee on Intelligence of the Senate  
10          and the Committee on the Judiciary and the Perma-  
11          nent Select Committee on Intelligence of the House  
12          of Representatives a report containing the results of  
13          the assessment for calendar years 2012 through  
14          2014.”;

15          (5) in subsection (e), as redesignated by para-  
16          graph (3)—

17                 (A) in paragraph (1)—

18                         (i) by striking “a report under sub-  
19                         section (c)(1) or (c)(2)” and inserting “any  
20                         report under subsection (e) or (d)”;

21                         (ii) by striking “Inspector General of  
22                         the Department of Justice” and inserting  
23                         “Inspector General of the Department of  
24                         Justice, the Inspector General of the Intel-  
25                         ligence Community, and any Inspector

1           General of an element of the intelligence  
2           community that prepares a report to assist  
3           the Inspector General of the Department  
4           of Justice or the Inspector General of the  
5           Intelligence Community in complying with  
6           the requirements of this section”; and

7           (B) in paragraph (2), by striking “the re-  
8           ports submitted under subsections (c)(1) and  
9           (c)(2)” and inserting “any report submitted  
10          under subsection (c) or (d)”;

11          (6) in subsection (f), as redesignated by para-  
12          graph (3)—

13                 (A) by striking “The reports submitted  
14                 under subsections (c)(1) and (c)(2)” and insert-  
15                 ing “Each report submitted under subsection  
16                 (c)”;

17                 (B) by striking “subsection (d)(2)” and in-  
18                 serting “subsection (e)(2)”;

19          (7) by adding at the end the following new sub-  
20          section:

21          “(g) DEFINITIONS.—In this section:

22                 “(1) INTELLIGENCE COMMUNITY.—The term  
23                 ‘intelligence community’ has the meaning given that  
24                 term in section 3 of the National Security Act of  
25                 1947 (50 U.S.C. 3003).

1           “(2) UNITED STATES PERSON.—The term  
2           ‘United States person’ has the meaning given that  
3           term in section 101 of the Foreign Intelligence Sur-  
4           veillance Act of 1978 (50 U.S.C. 1801).”.

5 **SEC. 109. EFFECTIVE DATE.**

6           (a) IN GENERAL.—The amendments made by sec-  
7           tions 101 through 103 shall take effect on the date that  
8           is 180 days after the date of the enactment of this Act.

9           (b) RULE OF CONSTRUCTION.—Nothing in this Act  
10          shall be construed to alter or eliminate the authority of  
11          the Government to obtain an order under title V of the  
12          Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.  
13          1861 et seq.) as in effect prior to the effective date de-  
14          scribed in subsection (a) during the period ending on such  
15          effective date.

16 **SEC. 110. RULE OF CONSTRUCTION.**

17          Nothing in this Act shall be construed to authorize  
18          the production of the contents (as such term is defined  
19          in section 2510(8) of title 18, United States Code) of any  
20          electronic communication from an electronic communica-  
21          tion service provider (as such term is defined in section  
22          701(b)(4) of the Foreign Intelligence Surveillance Act of  
23          1978 (50 U.S.C. 1881(b)(4))) under title V of the Foreign  
24          Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et  
25          seq.).

1 **TITLE II—FISA PEN REGISTER**  
2 **AND TRAP AND TRACE DE-**  
3 **VICE REFORM**

4 **SEC. 201. PROHIBITION ON BULK COLLECTION.**

5 (a) PROHIBITION.—Section 402(c) (50 U.S.C.  
6 1842(c)) is amended—

7 (1) in paragraph (1), by striking “; and” and  
8 inserting a semicolon;

9 (2) in paragraph (2), by striking the period at  
10 the end and inserting “; and”; and

11 (3) by adding at the end the following new  
12 paragraph:

13 “(3) a specific selection term to be used as the  
14 basis for the use of the pen register or trap and  
15 trace device.”.

16 (b) DEFINITION.—Section 401 (50 U.S.C. 1841) is  
17 amended by adding at the end the following new para-  
18 graph:

19 “(4)(A) The term ‘specific selection term’—

20 “(i) is a term that specifically identifies a  
21 person, account, address, or personal device, or  
22 any other specific identifier; and

23 “(ii) is used to limit, to the greatest extent  
24 reasonably practicable, the scope of information  
25 sought, consistent with the purpose for seeking



1           the use of the pen register or trap and trace de-  
2           vice.

3           “(B) A specific selection term under subpara-  
4           graph (A) does not include an identifier that does  
5           not limit, to the greatest extent reasonably prac-  
6           ticable, the scope of information sought, consistent  
7           with the purpose for seeking the use of the pen reg-  
8           ister or trap and trace device, such as an identifier  
9           that—

10                   “(i) identifies an electronic communication  
11                   service provider (as that term is defined in sec-  
12                   tion 701) or a provider of remote computing  
13                   service (as that term is defined in section 2711  
14                   of title 18, United States Code), when not used  
15                   as part of a specific identifier as described in  
16                   subparagraph (A), unless the provider is itself  
17                   a subject of an authorized investigation for  
18                   which the specific selection term is used as the  
19                   basis for the use; or

20                   “(ii) identifies a broad geographic region,  
21                   including the United States, a city, a county, a  
22                   State, a zip code, or an area code, when not  
23                   used as part of a specific identifier as described  
24                   in subparagraph (A).

1           “(C) For purposes of subparagraph (A), the  
2 term ‘address’ means a physical address or elec-  
3 tronic address, such as an electronic mail address or  
4 temporarily assigned network address (including an  
5 Internet protocol address).

6           “(D) Nothing in this paragraph shall be con-  
7 strued to preclude the use of multiple terms or iden-  
8 tifiers to meet the requirements of subparagraph  
9 (A).”.

10 **SEC. 202. PRIVACY PROCEDURES.**

11       (a) IN GENERAL.—Section 402 (50 U.S.C. 1842) is  
12 amended by adding at the end the following new sub-  
13 section:

14       “(h) PRIVACY PROCEDURES.—

15           “(1) IN GENERAL.—The Attorney General shall  
16 ensure that appropriate policies and procedures are  
17 in place to safeguard nonpublicly available informa-  
18 tion concerning United States persons that is col-  
19 lected through the use of a pen register or trap and  
20 trace device installed under this section. Such poli-  
21 cies and procedures shall, to the maximum extent  
22 practicable and consistent with the need to protect  
23 national security, include privacy protections that  
24 apply to the collection, retention, and use of infor-  
25 mation concerning United States persons.

1           “(2) RULE OF CONSTRUCTION.—Nothing in  
2 this subsection limits the authority of the court es-  
3 tablished under section 103(a) or of the Attorney  
4 General to impose additional privacy or minimization  
5 procedures with regard to the installation or use of  
6 a pen register or trap and trace device.”.

7           (b) EMERGENCY AUTHORITY.—Section 403 (50  
8 U.S.C. 1843) is amended by adding at the end the fol-  
9 lowing new subsection:

10          “(d) PRIVACY PROCEDURES.—Information collected  
11 through the use of a pen register or trap and trace device  
12 installed under this section shall be subject to the policies  
13 and procedures required under section 402(h).”.

14 **TITLE III—FISA ACQUISITIONS**  
15 **TARGETING PERSONS OUT-**  
16 **SIDE THE UNITED STATES RE-**  
17 **FORMS**

18 **SEC. 301. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-**  
19 **FORMATION.**

20          Section 702(i)(3) (50 U.S.C. 1881a(i)(3)) is amended  
21 by adding at the end the following new subparagraph:

22                   “(D) LIMITATION ON USE OF INFORMA-  
23                   TION.—

24                           “(i) IN GENERAL.—Except as pro-  
25                           vided in clause (ii), if the Court orders a

1 correction of a deficiency in a certification  
2 or procedures under subparagraph (B), no  
3 information obtained or evidence derived  
4 pursuant to the part of the certification or  
5 procedures that has been identified by the  
6 Court as deficient concerning any United  
7 States person shall be received in evidence  
8 or otherwise disclosed in any trial, hearing,  
9 or other proceeding in or before any court,  
10 grand jury, department, office, agency,  
11 regulatory body, legislative committee, or  
12 other authority of the United States, a  
13 State, or political subdivision thereof, and  
14 no information concerning any United  
15 States person acquired pursuant to such  
16 part of such certification or procedures  
17 shall subsequently be used or disclosed in  
18 any other manner by Federal officers or  
19 employees without the consent of the  
20 United States person, except with the ap-  
21 proval of the Attorney General if the infor-  
22 mation indicates a threat of death or seri-  
23 ous bodily harm to any person.

24 “(ii) EXCEPTION.—If the Government  
25 corrects any deficiency identified by the

1 order of the Court under subparagraph  
2 (B), the Court may permit the use or dis-  
3 closure of information obtained before the  
4 date of the correction under such mini-  
5 mization procedures as the Court may ap-  
6 prove for purposes of this clause.”.

7 **TITLE IV—FOREIGN INTEL-**  
8 **LIGENCE SURVEILLANCE**  
9 **COURT REFORMS**

10 **SEC. 401. APPOINTMENT OF AMICUS CURIAE.**

11 Section 103 (50 U.S.C. 1803) is amended by adding  
12 at the end the following new subsections:

13 “(i) AMICUS CURIAE.—

14 “(1) DESIGNATION.—The presiding judges of  
15 the courts established under subsections (a) and (b)  
16 shall, not later than 180 days after the enactment  
17 of this subsection, jointly designate not fewer than  
18 5 individuals to be eligible to serve as amicus curiae,  
19 who shall serve pursuant to rules the presiding  
20 judges may establish. In designating such individ-  
21 uals, the presiding judges may consider individuals  
22 recommended by any source, including members of  
23 the Privacy and Civil Liberties Oversight Board, the  
24 judges determine appropriate.

1           “(2) AUTHORIZATION.—A court established  
2 under subsection (a) or (b), consistent with the re-  
3 quirement of subsection (c) and any other statutory  
4 requirement that the court act expeditiously or with-  
5 in a stated time—

6           “(A) shall appoint an individual who has  
7 been designated under paragraph (1) to serve  
8 as amicus curiae to assist such court in the  
9 consideration of any application for an order or  
10 review that, in the opinion of the court, pre-  
11 sents a novel or significant interpretation of the  
12 law, unless the court issues a finding that such  
13 appointment is not appropriate; and

14           “(B) may appoint an individual or organi-  
15 zation to serve as amicus curiae, including to  
16 provide technical expertise, in any instance as  
17 such court deems appropriate or, upon motion,  
18 permit an individual or organization leave to  
19 file an amicus curiae brief.

20           “(3) QUALIFICATIONS OF AMICUS CURIAE.—

21           “(A) EXPERTISE.—Individuals designated  
22 under paragraph (1) shall be persons who pos-  
23 sess expertise in privacy and civil liberties, in-  
24 telligence collection, communications tech-  
25 nology, or any other area that may lend legal

1 or technical expertise to a court established  
2 under subsection (a) or (b).

3 “(B) SECURITY CLEARANCE.—Individuals  
4 designated pursuant to paragraph (1) shall be  
5 persons who are determined to be eligible for  
6 access to classified information necessary to  
7 participate in matters before the courts. Amicus  
8 curiae appointed by the court pursuant to para-  
9 graph (2) shall be persons who are determined  
10 to be eligible for access to classified informa-  
11 tion, if such access is necessary to participate  
12 in the matters in which they may be appointed.

13 “(4) DUTIES.—If a court established under  
14 subsection (a) or (b) appoints an amicus curiae  
15 under paragraph (2)(A), the amicus curiae shall pro-  
16 vide to the court, as appropriate—

17 “(A) legal arguments that advance the pro-  
18 tection of individual privacy and civil liberties;

19 “(B) information related to intelligence  
20 collection or communications technology; or

21 “(C) legal arguments or information re-  
22 garding any other area relevant to the issue  
23 presented to the court.

24 “(5) ASSISTANCE.—An amicus curiae appointed  
25 under paragraph (2)(A) may request that the court

1 designate or appoint additional amici curiae pursu-  
2 ant to paragraph (1) or paragraph (2), to be avail-  
3 able to assist the amicus curiae.

4 “(6) ACCESS TO INFORMATION.—

5 “(A) IN GENERAL.—If a court established  
6 under subsection (a) or (b) appoints an amicus  
7 curiae under paragraph (2), the amicus cu-  
8 riae—

9 “(i) shall have access to any legal  
10 precedent, application, certification, peti-  
11 tion, motion, or such other materials that  
12 the court determines are relevant to the  
13 duties of the amicus curiae; and

14 “(ii) may, if the court determines that  
15 it is relevant to the duties of the amicus  
16 curiae, consult with any other individuals  
17 designated pursuant to paragraph (1) re-  
18 garding information relevant to any as-  
19 signed proceeding.

20 “(B) BRIEFINGS.—The Attorney General  
21 may periodically brief or provide relevant mate-  
22 rials to individuals designated pursuant to para-  
23 graph (1) regarding constructions and interpre-  
24 tations of this Act and legal, technological, and



1 other issues related to actions authorized by  
2 this Act.

3 “(C) CLASSIFIED INFORMATION.—An ami-  
4 cus curiae designated or appointed by the court  
5 may have access to classified documents, infor-  
6 mation, and other materials or proceedings only  
7 if that individual is eligible for access to classi-  
8 fied information and to the extent consistent  
9 with the national security of the United States.

10 “(D) RULE OF CONSTRUCTION.—Nothing  
11 in this section shall be construed to require the  
12 Government to provide information to an ami-  
13 cus curiae appointed by the court that is privi-  
14 leged from disclosure.

15 “(7) NOTIFICATION.—A presiding judge of a  
16 court established under subsection (a) or (b) shall  
17 notify the Attorney General of each exercise of the  
18 authority to appoint an individual to serve as amicus  
19 curiae under paragraph (2).

20 “(8) ASSISTANCE.—A court established under  
21 subsection (a) or (b) may request and receive (in-  
22 cluding on a nonreimbursable basis) the assistance  
23 of the executive branch in the implementation of this  
24 subsection.

1           “(9) ADMINISTRATION.—A court established  
2           under subsection (a) or (b) may provide for the des-  
3           ignation, appointment, removal, training, or other  
4           support for an individual designated to serve as ami-  
5           cus curiae under paragraph (1) or appointed to  
6           serve as amicus curiae under paragraph (2) in a  
7           manner that is not inconsistent with this subsection.

8           “(10) RECEIPT OF INFORMATION.—Nothing in  
9           this subsection shall limit the ability of a court es-  
10          tablished under subsection (a) or (b) to request or  
11          receive information or materials from, or otherwise  
12          communicate with, the Government or amicus curiae  
13          appointed under paragraph (2) on an ex parte basis,  
14          nor limit any special or heightened obligation in any  
15          ex parte communication or proceeding.

16          “(j) REVIEW OF FISA COURT DECISIONS.—Fol-  
17          lowing issuance of an order under this Act, a court estab-  
18          lished under subsection (a) shall certify for review to the  
19          court established under subsection (b) any question of law  
20          that may affect resolution of the matter in controversy  
21          that the court determines warrants such review because  
22          of a need for uniformity or because consideration by the  
23          court established under subsection (b) would serve the in-  
24          terests of justice. Upon certification of a question of law  
25          under this subsection, the court established under sub-

1 section (b) may give binding instructions or require the  
2 entire record to be sent up for decision of the entire matter  
3 in controversy.

4 “(k) REVIEW OF FISA COURT OF REVIEW DECI-  
5 SIONS.—

6 “(1) CERTIFICATION.—For purposes of section  
7 1254(2) of title 28, United States Code, the court  
8 of review established under subsection (b) shall be  
9 considered to be a court of appeals.

10 “(2) AMICUS CURIAE BRIEFING.—Upon certifi-  
11 cation of an application under paragraph (1), the  
12 Supreme Court of the United States may appoint an  
13 amicus curiae designated under subsection (i)(1), or  
14 any other person, to provide briefing or other assist-  
15 ance.”.

16 **SEC. 402. DECLASSIFICATION OF DECISIONS, ORDERS, AND**  
17 **OPINIONS.**

18 (a) DECLASSIFICATION.—Title VI (50 U.S.C. 1871  
19 et seq.) is amended—

20 (1) in the heading, by striking “**REPORT-**  
21 **ING REQUIREMENT**” and inserting “**OVER-**  
22 **SIGHT**”; and

23 (2) by adding at the end the following new sec-  
24 tion:

1 **“SEC. 602. DECLASSIFICATION OF SIGNIFICANT DECISIONS,**  
2 **ORDERS, AND OPINIONS.**

3 “(a) DECLASSIFICATION REQUIRED.—Subject to  
4 subsection (b), the Director of National Intelligence, in  
5 consultation with the Attorney General, shall conduct a  
6 declassification review of each decision, order, or opinion  
7 issued by the Foreign Intelligence Surveillance Court or  
8 the Foreign Intelligence Surveillance Court of Review (as  
9 defined in section 601(e)) that includes a significant con-  
10 struction or interpretation of any provision of law, includ-  
11 ing any novel or significant construction or interpretation  
12 of the term ‘specific selection term’, and, consistent with  
13 that review, make publicly available to the greatest extent  
14 practicable each such decision, order, or opinion.

15 “(b) REDACTED FORM.—The Director of National  
16 Intelligence, in consultation with the Attorney General,  
17 may satisfy the requirement under subsection (a) to make  
18 a decision, order, or opinion described in such subsection  
19 publicly available to the greatest extent practicable by  
20 making such decision, order, or opinion publicly available  
21 in redacted form.

22 “(c) NATIONAL SECURITY WAIVER.—The Director of  
23 National Intelligence, in consultation with the Attorney  
24 General, may waive the requirement to declassify and  
25 make publicly available a particular decision, order, or  
26 opinion under subsection (a), if—

1           “(1) the Director of National Intelligence, in  
2           consultation with the Attorney General, determines  
3           that a waiver of such requirement is necessary to  
4           protect the national security of the United States or  
5           properly classified intelligence sources or methods;  
6           and

7           “(2) the Director of National Intelligence  
8           makes publicly available an unclassified statement  
9           prepared by the Attorney General, in consultation  
10          with the Director of National Intelligence—

11                 “(A) summarizing the significant construc-  
12                 tion or interpretation of any provision of law,  
13                 which shall include, to the extent consistent  
14                 with national security, a description of the con-  
15                 text in which the matter arises and any signifi-  
16                 cant construction or interpretation of any stat-  
17                 ute, constitutional provision, or other legal au-  
18                 thority relied on by the decision; and

19                 “(B) that specifies that the statement has  
20                 been prepared by the Attorney General and  
21                 constitutes no part of the opinion of the For-  
22                 eign Intelligence Surveillance Court or the For-  
23                 eign Intelligence Surveillance Court of Re-  
24                 view.”.

1 (b) TABLE OF CONTENTS AMENDMENTS.—The table  
2 of contents in the first section is amended—

3 (1) by striking the item relating to title VI and  
4 inserting the following new item:

“TITLE VI—OVERSIGHT”;

5 and

6 (2) by inserting after the item relating to sec-  
7 tion 601 the following new item:

“Sec. 602. Declassification of significant decisions, orders, and opinions.”.

8 **TITLE V—NATIONAL SECURITY**  
9 **LETTER REFORM**

10 **SEC. 501. PROHIBITION ON BULK COLLECTION.**

11 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE  
12 TOLL AND TRANSACTIONAL RECORDS.—Section 2709(b)  
13 of title 18, United States Code, is amended in the matter  
14 preceding paragraph (1) by striking “may” and inserting  
15 “may, using a term that specifically identifies a person,  
16 entity, telephone number, or account as the basis for a  
17 request”.

18 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN  
19 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section  
20 1114(a)(2) of the Right to Financial Privacy Act of 1978  
21 (12 U.S.C. 3414(a)(2)) is amended by striking the period  
22 and inserting “and a term that specifically identifies a cus-  
23 tomer, entity, or account to be used as the basis for the  
24 production and disclosure of financial records.”.

1 (c) DISCLOSURES TO FBI OF CERTAIN CONSUMER  
2 RECORDS FOR COUNTERINTELLIGENCE PURPOSES.—Sec-  
3 tion 626 of the Fair Credit Reporting Act (15 U.S.C.  
4 1681u) is amended—

5 (1) in subsection (a), by striking “that informa-  
6 tion,” and inserting “that information that includes  
7 a term that specifically identifies a consumer or ac-  
8 count to be used as the basis for the production of  
9 that information,”;

10 (2) in subsection (b), by striking “written re-  
11 quest,” and inserting “written request that includes  
12 a term that specifically identifies a consumer or ac-  
13 count to be used as the basis for the production of  
14 that information,”; and

15 (3) in subsection (c), by inserting “, which shall  
16 include a term that specifically identifies a consumer  
17 or account to be used as the basis for the production  
18 of the information,” after “issue an order ex parte”.

19 (d) DISCLOSURES TO GOVERNMENTAL AGENCIES  
20 FOR COUNTERTERRORISM PURPOSES OF CONSUMER RE-  
21 PORTS.—Section 627(a) of the Fair Credit Reporting Act  
22 (15 U.S.C. 1681v(a)) is amended by striking “analysis.”  
23 and inserting “analysis and that includes a term that spe-  
24 cifically identifies a consumer or account to be used as  
25 the basis for the production of such information.”.

1 **SEC. 502. LIMITATIONS ON DISCLOSURE OF NATIONAL SE-**  
2 **CURITY LETTERS.**

3 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE  
4 TOLL AND TRANSACTIONAL RECORDS.—Section 2709 of  
5 title 18, United States Code, is amended by striking sub-  
6 section (c) and inserting the following new subsection:

7 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

8 “(1) PROHIBITION.—

9 “(A) IN GENERAL.—If a certification is  
10 issued under subparagraph (B) and notice of  
11 the right to judicial review under subsection (d)  
12 is provided, no wire or electronic communica-  
13 tion service provider that receives a request  
14 under subsection (b), or officer, employee, or  
15 agent thereof, shall disclose to any person that  
16 the Federal Bureau of Investigation has sought  
17 or obtained access to information or records  
18 under this section.

19 “(B) CERTIFICATION.—The requirements  
20 of subparagraph (A) shall apply if the Director  
21 of the Federal Bureau of Investigation, or a  
22 designee of the Director whose rank shall be no  
23 lower than Deputy Assistant Director at Bu-  
24 reau headquarters or a Special Agent in Charge  
25 of a Bureau field office, certifies that the ab-



1           sence of a prohibition of disclosure under this  
2           subsection may result in—

3                   “(i) a danger to the national security  
4                   of the United States;

5                   “(ii) interference with a criminal,  
6                   counterterrorism, or counterintelligence in-  
7                   vestigation;

8                   “(iii) interference with diplomatic re-  
9                   lations; or

10                   “(iv) danger to the life or physical  
11                   safety of any person.

12           “(2) EXCEPTION.—

13                   “(A) IN GENERAL.—A wire or electronic  
14                   communication service provider that receives a  
15                   request under subsection (b), or officer, em-  
16                   ployee, or agent thereof, may disclose informa-  
17                   tion otherwise subject to any applicable non-  
18                   disclosure requirement to—

19                   “(i) those persons to whom disclosure  
20                   is necessary in order to comply with the re-  
21                   quest;

22                   “(ii) an attorney in order to obtain  
23                   legal advice or assistance regarding the re-  
24                   quest; or

1           “(iii) other persons as permitted by  
2           the Director of the Federal Bureau of In-  
3           vestigation or the designee of the Director.

4           “(B) APPLICATION.—A person to whom  
5           disclosure is made under subparagraph (A)  
6           shall be subject to the nondisclosure require-  
7           ments applicable to a person to whom a request  
8           is issued under subsection (b) in the same man-  
9           ner as the person to whom the request is  
10          issued.

11          “(C) NOTICE.—Any recipient that dis-  
12          closes to a person described in subparagraph  
13          (A) information otherwise subject to a non-  
14          disclosure requirement shall notify the person of  
15          the applicable nondisclosure requirement.

16          “(D) IDENTIFICATION OF DISCLOSURE RE-  
17          CIPIENTS.—At the request of the Director of  
18          the Federal Bureau of Investigation or the des-  
19          ignee of the Director, any person making or in-  
20          tending to make a disclosure under clause (i) or  
21          (iii) of subparagraph (A) shall identify to the  
22          Director or such designee the person to whom  
23          such disclosure will be made or to whom such  
24          disclosure was made prior to the request.”.

1 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN  
2 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section  
3 1114 of the Right to Financial Privacy Act of 1978 (12  
4 U.S.C. 3414) is amended—

5 (1) in subsection (a)(5), by striking subpara-  
6 graph (D); and

7 (2) by inserting after subsection (b) the fol-  
8 lowing new subsection:

9 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

10 “(1) PROHIBITION.—

11 “(A) IN GENERAL.—If a certification is  
12 issued under subparagraph (B) and notice of  
13 the right to judicial review under subsection (d)  
14 is provided, no financial institution that receives  
15 a request under subsection (a), or officer, em-  
16 ployee, or agent thereof, shall disclose to any  
17 person that the Federal Bureau of Investigation  
18 has sought or obtained access to information or  
19 records under subsection (a).

20 “(B) CERTIFICATION.—The requirements  
21 of subparagraph (A) shall apply if the Director  
22 of the Federal Bureau of Investigation, or a  
23 designee of the Director whose rank shall be no  
24 lower than Deputy Assistant Director at Bu-  
25 reau headquarters or a Special Agent in Charge

1 of a Bureau field office, certifies that the ab-  
2 sence of a prohibition of disclosure under this  
3 subsection may result in—

4 “(i) a danger to the national security  
5 of the United States;

6 “(ii) interference with a criminal,  
7 counterterrorism, or counterintelligence in-  
8 vestigation;

9 “(iii) interference with diplomatic re-  
10 lations; or

11 “(iv) danger to the life or physical  
12 safety of any person.

13 “(2) EXCEPTION.—

14 “(A) IN GENERAL.—A financial institution  
15 that receives a request under subsection (a), or  
16 officer, employee, or agent thereof, may disclose  
17 information otherwise subject to any applicable  
18 nondisclosure requirement to—

19 “(i) those persons to whom disclosure  
20 is necessary in order to comply with the re-  
21 quest;

22 “(ii) an attorney in order to obtain  
23 legal advice or assistance regarding the re-  
24 quest; or

1           “(iii) other persons as permitted by  
2           the Director of the Federal Bureau of In-  
3           vestigation or the designee of the Director.

4           “(B) APPLICATION.—A person to whom  
5           disclosure is made under subparagraph (A)  
6           shall be subject to the nondisclosure require-  
7           ments applicable to a person to whom a request  
8           is issued under subsection (a) in the same man-  
9           ner as the person to whom the request is  
10          issued.

11          “(C) NOTICE.—Any recipient that dis-  
12          closes to a person described in subparagraph  
13          (A) information otherwise subject to a non-  
14          disclosure requirement shall inform the person  
15          of the applicable nondisclosure requirement.

16          “(D) IDENTIFICATION OF DISCLOSURE RE-  
17          CIPIENTS.—At the request of the Director of  
18          the Federal Bureau of Investigation or the des-  
19          ignee of the Director, any person making or in-  
20          tending to make a disclosure under clause (i) or  
21          (iii) of subparagraph (A) shall identify to the  
22          Director or such designee the person to whom  
23          such disclosure will be made or to whom such  
24          disclosure was made prior to the request.”.

1           (c) IDENTITY OF FINANCIAL INSTITUTIONS AND  
2 CREDIT REPORTS.—Section 626 of the Fair Credit Re-  
3 porting Act (15 U.S.C. 1681u) is amended by striking  
4 subsection (d) and inserting the following new subsection:

5           “(d) PROHIBITION OF CERTAIN DISCLOSURE.—

6                   “(1) PROHIBITION.—

7                           “(A) IN GENERAL.—If a certification is  
8 issued under subparagraph (B) and notice of  
9 the right to judicial review under subsection (e)  
10 is provided, no consumer reporting agency that  
11 receives a request under subsection (a) or (b) or  
12 an order under subsection (c), or officer, em-  
13 ployee, or agent thereof, shall disclose or specify  
14 in any consumer report, that the Federal Bu-  
15ureau of Investigation has sought or obtained ac-  
16cess to information or records under subsection  
17 (a), (b), or (c).

18                           “(B) CERTIFICATION.—The requirements  
19 of subparagraph (A) shall apply if the Director  
20 of the Federal Bureau of Investigation, or a  
21 designee of the Director whose rank shall be no  
22 lower than Deputy Assistant Director at Bu-  
23reau headquarters or a Special Agent in Charge  
24 of a Bureau field office, certifies that the ab-

1           sence of a prohibition of disclosure under this  
2           subsection may result in—

3                   “(i) a danger to the national security  
4                   of the United States;

5                   “(ii) interference with a criminal,  
6                   counterterrorism, or counterintelligence in-  
7                   vestigation;

8                   “(iii) interference with diplomatic re-  
9                   lations; or

10                   “(iv) danger to the life or physical  
11                   safety of any person.

12           “(2) EXCEPTION.—

13                   “(A) IN GENERAL.—A consumer reporting  
14                   agency that receives a request under subsection  
15                   (a) or (b) or an order under subsection (c), or  
16                   officer, employee, or agent thereof, may disclose  
17                   information otherwise subject to any applicable  
18                   nondisclosure requirement to—

19                   “(i) those persons to whom disclosure  
20                   is necessary in order to comply with the re-  
21                   quest;

22                   “(ii) an attorney in order to obtain  
23                   legal advice or assistance regarding the re-  
24                   quest; or

1           “(iii) other persons as permitted by  
2           the Director of the Federal Bureau of In-  
3           vestigation or the designee of the Director.

4           “(B) APPLICATION.—A person to whom  
5           disclosure is made under subparagraph (A)  
6           shall be subject to the nondisclosure require-  
7           ments applicable to a person to whom a request  
8           under subsection (a) or (b) or an order under  
9           subsection (c) is issued in the same manner as  
10          the person to whom the request is issued.

11          “(C) NOTICE.—Any recipient that dis-  
12          closes to a person described in subparagraph  
13          (A) information otherwise subject to a non-  
14          disclosure requirement shall inform the person  
15          of the applicable nondisclosure requirement.

16          “(D) IDENTIFICATION OF DISCLOSURE RE-  
17          CIPIENTS.—At the request of the Director of  
18          the Federal Bureau of Investigation or the des-  
19          ignee of the Director, any person making or in-  
20          tending to make a disclosure under clause (i) or  
21          (iii) of subparagraph (A) shall identify to the  
22          Director or such designee the person to whom  
23          such disclosure will be made or to whom such  
24          disclosure was made prior to the request.”.



1 (d) CONSUMER REPORTS.—Section 627 of the Fair  
2 Credit Reporting Act (15 U.S.C. 1681v) is amended by  
3 striking subsection (c) and inserting the following new  
4 subsection:

5 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

6 “(1) PROHIBITION.—

7 “(A) IN GENERAL.—If a certification is  
8 issued under subparagraph (B) and notice of  
9 the right to judicial review under subsection (d)  
10 is provided, no consumer reporting agency that  
11 receives a request under subsection (a), or offi-  
12 cer, employee, or agent thereof, shall disclose or  
13 specify in any consumer report, that a govern-  
14 ment agency described in subsection (a) has  
15 sought or obtained access to information or  
16 records under subsection (a).

17 “(B) CERTIFICATION.—The requirements  
18 of subparagraph (A) shall apply if the head of  
19 the government agency described in subsection  
20 (a), or a designee, certifies that the absence of  
21 a prohibition of disclosure under this subsection  
22 may result in—

23 “(i) a danger to the national security  
24 of the United States;

1           “(ii) interference with a criminal,  
2           counterterrorism, or counterintelligence in-  
3           vestigation;

4           “(iii) interference with diplomatic re-  
5           lations; or

6           “(iv) danger to the life or physical  
7           safety of any person.

8           “(2) EXCEPTION.—

9           “(A) IN GENERAL.—A consumer reporting  
10          agency that receives a request under subsection  
11          (a), or officer, employee, or agent thereof, may  
12          disclose information otherwise subject to any  
13          applicable nondisclosure requirement to—

14          “(i) those persons to whom disclosure  
15          is necessary in order to comply with the re-  
16          quest;

17          “(ii) an attorney in order to obtain  
18          legal advice or assistance regarding the re-  
19          quest; or

20          “(iii) other persons as permitted by  
21          the head of the government agency de-  
22          scribed in subsection (a) or a designee.

23          “(B) APPLICATION.—A person to whom  
24          disclosure is made under subparagraph (A)  
25          shall be subject to the nondisclosure require-

1           ments applicable to a person to whom a request  
2           under subsection (a) is issued in the same man-  
3           ner as the person to whom the request is  
4           issued.

5           “(C) NOTICE.—Any recipient that dis-  
6           closes to a person described in subparagraph  
7           (A) information otherwise subject to a non-  
8           disclosure requirement shall inform the person  
9           of the applicable nondisclosure requirement.

10           “(D) IDENTIFICATION OF DISCLOSURE RE-  
11           CIPIENTS.—At the request of the head of the  
12           government agency described in subsection (a)  
13           or a designee, any person making or intending  
14           to make a disclosure under clause (i) or (iii) of  
15           subparagraph (A) shall identify to the head or  
16           such designee the person to whom such disclo-  
17           sure will be made or to whom such disclosure  
18           was made prior to the request.”.

19           (e) INVESTIGATIONS OF PERSONS WITH ACCESS TO  
20           CLASSIFIED INFORMATION.—Section 802 of the National  
21           Security Act of 1947 (50 U.S.C. 3162) is amended by  
22           striking subsection (b) and inserting the following new  
23           subsection:

24           “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

25           “(1) PROHIBITION.—

1           “(A) IN GENERAL.—If a certification is  
2 issued under subparagraph (B) and notice of  
3 the right to judicial review under subsection (c)  
4 is provided, no governmental or private entity  
5 that receives a request under subsection (a), or  
6 officer, employee, or agent thereof, shall dis-  
7 close to any person that an authorized inves-  
8 tigative agency described in subsection (a) has  
9 sought or obtained access to information under  
10 subsection (a).

11           “(B) CERTIFICATION.—The requirements  
12 of subparagraph (A) shall apply if the head of  
13 an authorized investigative agency described in  
14 subsection (a), or a designee, certifies that the  
15 absence of a prohibition of disclosure under this  
16 subsection may result in—

17                   “(i) a danger to the national security  
18 of the United States;

19                   “(ii) interference with a criminal,  
20 counterterrorism, or counterintelligence in-  
21 vestigation;

22                   “(iii) interference with diplomatic re-  
23 lations; or

24                   “(iv) danger to the life or physical  
25 safety of any person.

1           “(2) EXCEPTION.—

2                   “(A) IN GENERAL.—A governmental or  
3 private entity that receives a request under sub-  
4 section (a), or officer, employee, or agent there-  
5 of, may disclose information otherwise subject  
6 to any applicable nondisclosure requirement  
7 to—

8                           “(i) those persons to whom disclosure  
9 is necessary in order to comply with the re-  
10 quest;

11                           “(ii) an attorney in order to obtain  
12 legal advice or assistance regarding the re-  
13 quest; or

14                           “(iii) other persons as permitted by  
15 the head of the authorized investigative  
16 agency described in subsection (a) or a  
17 designee.

18                   “(B) APPLICATION.—A person to whom  
19 disclosure is made under subparagraph (A)  
20 shall be subject to the nondisclosure require-  
21 ments applicable to a person to whom a request  
22 is issued under subsection (a) in the same man-  
23 ner as the person to whom the request is  
24 issued.

1           “(C) NOTICE.—Any recipient that dis-  
2 closes to a person described in subparagraph  
3 (A) information otherwise subject to a non-  
4 disclosure requirement shall inform the person  
5 of the applicable nondisclosure requirement.

6           “(D) IDENTIFICATION OF DISCLOSURE RE-  
7 CIPIENTS.—At the request of the head of an  
8 authorized investigative agency described in  
9 subsection (a), or a designee, any person mak-  
10 ing or intending to make a disclosure under  
11 clause (i) or (iii) of subparagraph (A) shall  
12 identify to the head of the authorized investiga-  
13 tive agency or such designee the person to  
14 whom such disclosure will be made or to whom  
15 such disclosure was made prior to the request.”.

16 (f) TERMINATION PROCEDURES.—

17           (1) IN GENERAL.—Not later than 180 days  
18 after the date of enactment of this Act, the Attorney  
19 General shall adopt procedures with respect to non-  
20 disclosure requirements issued pursuant to section  
21 2709 of title 18, United States Code, section 626 or  
22 627 of the Fair Credit Reporting Act (15 U.S.C.  
23 1681u and 1681v), section 1114 of the Right to Fi-  
24 nancial Privacy Act (12 U.S.C. 3414), or section

1 802 of the National Security Act of 1947 (50 U.S.C.  
2 3162), as amended by this Act, to require—

3 (A) the review at appropriate intervals of  
4 such a nondisclosure requirement to assess  
5 whether the facts supporting nondisclosure con-  
6 tinue to exist;

7 (B) the termination of such a nondisclo-  
8 sure requirement if the facts no longer support  
9 nondisclosure; and

10 (C) appropriate notice to the recipient of  
11 the national security letter, or officer, employee,  
12 or agent thereof, subject to the nondisclosure  
13 requirement, and the applicable court as appro-  
14 priate, that the nondisclosure requirement has  
15 been terminated.

16 (2) REPORTING.—Upon adopting the proce-  
17 dures required under paragraph (1), the Attorney  
18 General shall submit the procedures to the Com-  
19 mittee on the Judiciary of the Senate and the Com-  
20 mittee on the Judiciary of the House of Representa-  
21 tives.

22 (g) JUDICIAL REVIEW.—Section 3511 of title 18,  
23 United States Code, is amended by striking subsection (b)  
24 and inserting the following new subsection:

25 “(b) NONDISCLOSURE.—

1 “(1) IN GENERAL.—

2 “(A) NOTICE.—If a recipient of a request  
3 or order for a report, records, or other informa-  
4 tion under section 2709 of this title, section  
5 626 or 627 of the Fair Credit Reporting Act  
6 (15 U.S.C. 1681u and 1681v), section 1114 of  
7 the Right to Financial Privacy Act of 1978 (12  
8 U.S.C. 3414), or section 802 of the National  
9 Security Act of 1947 (50 U.S.C. 3162), wishes  
10 to have a court review a nondisclosure require-  
11 ment imposed in connection with the request or  
12 order, the recipient may notify the Government  
13 or file a petition for judicial review in any court  
14 described in subsection (a).

15 “(B) APPLICATION.—Not later than 30  
16 days after the date of receipt of a notification  
17 under subparagraph (A), the Government shall  
18 apply for an order prohibiting the disclosure of  
19 the existence or contents of the relevant request  
20 or order. An application under this subpara-  
21 graph may be filed in the district court of the  
22 United States for the judicial district in which  
23 the recipient of the order is doing business or  
24 in the district court of the United States for  
25 any judicial district within which the authorized



1 investigation that is the basis for the request is  
2 being conducted. The applicable nondisclosure  
3 requirement shall remain in effect during the  
4 pendency of proceedings relating to the require-  
5 ment.

6 “(C) CONSIDERATION.—A district court of  
7 the United States that receives a petition under  
8 subparagraph (A) or an application under sub-  
9 paragraph (B) should rule expeditiously, and  
10 shall, subject to paragraph (3), issue a non-  
11 disclosure order that includes conditions appro-  
12 priate to the circumstances.

13 “(2) APPLICATION CONTENTS.—An application  
14 for a nondisclosure order or extension thereof or a  
15 response to a petition filed under paragraph (1)  
16 shall include a certification from the Attorney Gen-  
17 eral, Deputy Attorney General, an Assistant Attor-  
18 ney General, or the Director of the Federal Bureau  
19 of Investigation, or a designee in a position not  
20 lower than Deputy Assistant Director at Bureau  
21 headquarters or a Special Agent in Charge in a Bu-  
22 reau field office designated by the Director, or in the  
23 case of a request by a department, agency, or instru-  
24 mentality of the Federal Government other than the  
25 Department of Justice, the head or deputy head of

1 the department, agency, or instrumentality, con-  
2 taining a statement of specific facts indicating that  
3 the absence of a prohibition of disclosure under this  
4 subsection may result in—

5 “(A) a danger to the national security of  
6 the United States;

7 “(B) interference with a criminal, counter-  
8 terrorism, or counterintelligence investigation;

9 “(C) interference with diplomatic relations;

10 or

11 “(D) danger to the life or physical safety  
12 of any person.

13 “(3) STANDARD.—A district court of the  
14 United States shall issue a nondisclosure order or  
15 extension thereof under this subsection if the court  
16 determines that there is reason to believe that disclo-  
17 sure of the information subject to the nondisclosure  
18 requirement during the applicable time period may  
19 result in—

20 “(A) a danger to the national security of  
21 the United States;

22 “(B) interference with a criminal, counter-  
23 terrorism, or counterintelligence investigation;

24 “(C) interference with diplomatic relations;

25 or

1                   “(D) danger to the life or physical safety  
2                   of any person.”.

3 **SEC. 503. JUDICIAL REVIEW.**

4           (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE  
5 TOLL AND TRANSACTIONAL RECORDS.—Section 2709 of  
6 title 18, United States Code, is amended—

7                   (1) by redesignating subsections (d), (e), and  
8                   (f) as subsections (e), (f), and (g), respectively; and

9                   (2) by inserting after subsection (c) the fol-  
10                   lowing new subsection:

11                   “(d) JUDICIAL REVIEW.—

12                           “(1) IN GENERAL.—A request under subsection  
13                           (b) or a nondisclosure requirement imposed in con-  
14                           nection with such request under subsection (c) shall  
15                           be subject to judicial review under section 3511.

16                           “(2) NOTICE.—A request under subsection (b)  
17                           shall include notice of the availability of judicial re-  
18                           view described in paragraph (1).”.

19           (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN  
20 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section  
21 1114 of the Right to Financial Privacy Act of 1978 (12  
22 U.S.C. 3414) is amended—

23                   (1) by redesignating subsection (d) as sub-  
24                   section (e); and

1           (2) by inserting after subsection (c) the fol-  
2           lowing new subsection:

3           “(d) JUDICIAL REVIEW.—

4           “(1) IN GENERAL.—A request under subsection  
5           (a) or a nondisclosure requirement imposed in con-  
6           nection with such request under subsection (c) shall  
7           be subject to judicial review under section 3511 of  
8           title 18, United States Code.

9           “(2) NOTICE.—A request under subsection (a)  
10          shall include notice of the availability of judicial re-  
11          view described in paragraph (1).”.

12          (c) IDENTITY OF FINANCIAL INSTITUTIONS AND  
13          CREDIT REPORTS.—Section 626 of the Fair Credit Re-  
14          porting Act (15 U.S.C. 1681u) is amended—

15                 (1) by redesignating subsections (e) through  
16                 (m) as subsections (f) through (n), respectively; and

17                 (2) by inserting after subsection (d) the fol-  
18                 lowing new subsection:

19                 “(e) JUDICIAL REVIEW.—

20                 “(1) IN GENERAL.—A request under subsection  
21                 (a) or (b) or an order under subsection (c) or a non-  
22                 disclosure requirement imposed in connection with  
23                 such request under subsection (d) shall be subject to  
24                 judicial review under section 3511 of title 18, United  
25                 States Code.

1           “(2) NOTICE.—A request under subsection (a)  
2           or (b) or an order under subsection (c) shall include  
3           notice of the availability of judicial review described  
4           in paragraph (1).”.

5           (d) IDENTITY OF FINANCIAL INSTITUTIONS AND  
6 CREDIT REPORTS.—Section 627 of the Fair Credit Re-  
7 porting Act (15 U.S.C. 1681v) is amended—

8           (1) by redesignating subsections (d), (e), and  
9           (f) as subsections (e), (f), and (g), respectively; and

10           (2) by inserting after subsection (c) the fol-  
11           lowing new subsection:

12           “(d) JUDICIAL REVIEW.—

13           “(1) IN GENERAL.—A request under subsection  
14           (a) or a non-disclosure requirement imposed in con-  
15           nection with such request under subsection (c) shall  
16           be subject to judicial review under section 3511 of  
17           title 18, United States Code.

18           “(2) NOTICE.—A request under subsection (a)  
19           shall include notice of the availability of judicial re-  
20           view described in paragraph (1).”.

21           (e) INVESTIGATIONS OF PERSONS WITH ACCESS TO  
22 CLASSIFIED INFORMATION.—Section 802 of the National  
23 Security Act of 1947 (50 U.S.C. 3162) is amended—

24           (1) by redesignating subsections (e) through (f)  
25           as subsections (d) through (g), respectively; and

1           (2) by inserting after subsection (b) the fol-  
2           lowing new subsection:

3           “(c) JUDICIAL REVIEW.—

4           “ (1) IN GENERAL.—A request under subsection  
5           (a) or a nondisclosure requirement imposed in con-  
6           nection with such request under subsection (b) shall  
7           be subject to judicial review under section 3511 of  
8           title 18, United States Code.

9           “(2) NOTICE.—A request under subsection (a)  
10          shall include notice of the availability of judicial re-  
11          view described in paragraph (1).”.

12 **TITLE VI—FISA TRANSPARENCY**  
13 **AND REPORTING REQUIRE-**  
14 **MENTS**

15 **SEC. 601. ADDITIONAL REPORTING ON ORDERS REQUIRING**  
16 **PRODUCTION OF BUSINESS RECORDS; BUSI-**  
17 **NESS RECORDS COMPLIANCE REPORTS TO**  
18 **CONGRESS.**

19          (a) REPORTS SUBMITTED TO COMMITTEES.—Section  
20 502(b) (50 U.S.C. 1862(b)) is amended—

21           (1) by redesignating paragraphs (1), (2), and  
22           (3) as paragraphs (6), (7), and (8), respectively; and

23           (2) by inserting before paragraph (6) (as so re-  
24           designated) the following new paragraphs:

1           “(1) a summary of all compliance reviews con-  
2           ducted by the Government for the production of tan-  
3           gible things under section 501;

4           “(2) the total number of applications described  
5           in section 501(b)(2)(B) made for orders approving  
6           requests for the production of tangible things;

7           “(3) the total number of such orders either  
8           granted, modified, or denied;

9           “(4) the total number of applications described  
10          in section 501(b)(2)(C) made for orders approving  
11          requests for the production of call detail records;

12          “(5) the total number of such orders either  
13          granted, modified, or denied;”.

14          (b) REPORTING ON CERTAIN TYPES OF PRODUC-  
15          TION.—Section 502(c)(1) (50 U.S.C. 1862(c)(1)) is  
16          amended—

17                 (1) in subparagraph (A), by striking “and”;

18                 (2) in subparagraph (B), by striking the period  
19                 at the end and inserting a semicolon; and

20                 (3) by adding at the end the following new sub-  
21                 paragraphs:

22                         “(C) the total number of applications made for  
23                         orders approving requests for the production of tan-  
24                         gible things under section 501 in which the specific

1 selection term does not specifically identify an indi-  
2 vidual, account, or personal device;

3 “(D) the total number of orders described in  
4 subparagraph (C) either granted, modified, or de-  
5 nied; and

6 “(E) with respect to orders described in sub-  
7 paragraph (D) that have been granted or modified,  
8 whether the court established under section 103 has  
9 directed additional, particularized minimization pro-  
10 cedures beyond those adopted pursuant to section  
11 501(g).”.

12 **SEC. 602. ANNUAL REPORTS BY THE GOVERNMENT.**

13 (a) IN GENERAL.—Title VI (50 U.S.C. 1871 et seq.),  
14 as amended by section 402 of this Act, is further amended  
15 by adding at the end the following new section:

16 **“SEC. 603. ANNUAL REPORTS.**

17 “(a) REPORT BY DIRECTOR OF THE ADMINISTRA-  
18 TIVE OFFICE OF THE UNITED STATES COURTS.—

19 “(1) REPORT REQUIRED.—The Director of the  
20 Administrative Office of the United States Courts  
21 shall annually submit to the Permanent Select Com-  
22 mittee on Intelligence and the Committee on the Ju-  
23 diciary of the House of Representatives and the Se-  
24 lect Committee on Intelligence and the Committee  
25 on the Judiciary of the Senate, subject to a declas-



1 sification review by the Attorney General and the  
2 Director of National Intelligence, a report that in-  
3 cludes—

4 “(A) the number of applications or certifi-  
5 cations for orders submitted under each of sec-  
6 tions 105, 304, 402, 501, 702, 703, and 704;

7 “(B) the number of such orders granted  
8 under each of those sections;

9 “(C) the number of orders modified under  
10 each of those sections;

11 “(D) the number of applications or certifi-  
12 cations denied under each of those sections;

13 “(E) the number of appointments of an in-  
14 dividual to serve as amicus curiae under section  
15 103, including the name of each individual ap-  
16 pointed to serve as amicus curiae; and

17 “(F) the number of findings issued under  
18 section 103(i) that such appointment is not ap-  
19 propriate and the text of any such findings.

20 “(2) PUBLICATION.—The Director shall make  
21 the report required under paragraph (1) publicly  
22 available on an Internet Web site, except that the  
23 Director shall not make publicly available on an  
24 Internet Web site the findings described in subpara-  
25 graph (F) of paragraph (1).

1       “(b) MANDATORY REPORTING BY DIRECTOR OF NA-  
2 TIONAL INTELLIGENCE.—Except as provided in sub-  
3 section (d), the Director of National Intelligence shall an-  
4 nually make publicly available on an Internet Web site a  
5 report that identifies, for the preceding 12-month period—

6           “(1) the total number of orders issued pursuant  
7 to titles I and III and sections 703 and 704 and a  
8 good faith estimate of the number of targets of such  
9 orders;

10          “(2) the total number of orders issued pursuant  
11 to section 702 and a good faith estimate of—

12           “(A) the number of search terms con-  
13 cerning a known United States person used to  
14 retrieve the unminimized contents of electronic  
15 communications or wire communications ob-  
16 tained through acquisitions authorized under  
17 such section, excluding the number of search  
18 terms used to prevent the return of information  
19 concerning a United States person; and

20           “(B) the number of queries concerning a  
21 known United States person of unminimized  
22 noncontents information relating to electronic  
23 communications or wire communications ob-  
24 tained through acquisitions authorized under  
25 such section, excluding the number of queries

1 containing information used to prevent the re-  
2 turn of information concerning a United States  
3 person;

4 “(3) the total number of orders issued pursuant  
5 to title IV and a good faith estimate of—

6 “(A) the number of targets of such orders;  
7 and

8 “(B) the number of unique identifiers used  
9 to communicate information collected pursuant  
10 to such orders;

11 “(4) the total number of orders issued pursuant  
12 to applications made under section 501(b)(2)(B) and  
13 a good faith estimate of—

14 “(A) the number of targets of such orders;  
15 and

16 “(B) the number of unique identifiers used  
17 to communicate information collected pursuant  
18 to such orders;

19 “(5) the total number of orders issued pursuant  
20 to applications made under section 501(b)(2)(C) and  
21 a good faith estimate of—

22 “(A) the number of targets of such orders;

23 “(B) the number of unique identifiers used  
24 to communicate information collected pursuant  
25 to such orders; and

1           “(C) the number of search terms that in-  
2           cluded information concerning a United States  
3           person that were used to query any database of  
4           call detail records obtained through the use of  
5           such orders; and

6           “(6) the total number of national security let-  
7           ters issued and the number of requests for informa-  
8           tion contained within such national security letters.

9           “(c) TIMING.—The annual reports required by sub-  
10          sections (a) and (b) shall be made publicly available during  
11          April of each year and include information relating to the  
12          previous calendar year.

13          “(d) EXCEPTIONS.—

14                 “(1) STATEMENT OF NUMERICAL RANGE.—If a  
15                 good faith estimate required to be reported under  
16                 subparagraph (B) of any of paragraphs (3), (4), or  
17                 (5) of subsection (b) is fewer than 500, it shall be  
18                 expressed as a numerical range of ‘fewer than 500’  
19                 and shall not be expressed as an individual number.

20                 “(2) NONAPPLICABILITY TO CERTAIN INFORMA-  
21                 TION.—

22                         “(A) FEDERAL BUREAU OF INVESTIGA-  
23                         TION.—Paragraphs (2)(A), (2)(B), and (5)(C)  
24                         of subsection (b) shall not apply to information

1 or records held by, or queries conducted by, the  
2 Federal Bureau of Investigation.

3 “(B) ELECTRONIC MAIL ADDRESS AND  
4 TELEPHONE NUMBERS.—Paragraph (3)(B) of  
5 subsection (b) shall not apply to orders result-  
6 ing in the acquisition of information by the  
7 Federal Bureau of Investigation that does not  
8 include electronic mail addresses or telephone  
9 numbers.

10 “(3) CERTIFICATION.—

11 “(A) IN GENERAL.—If the Director of Na-  
12 tional Intelligence concludes that a good faith  
13 estimate required to be reported under sub-  
14 section (b)(2)(B) cannot be determined accu-  
15 rately because some but not all of the relevant  
16 elements of the intelligence community are able  
17 to provide such good faith estimate, the Direc-  
18 tor shall—

19 “(i) certify that conclusion in writing  
20 to the Select Committee on Intelligence  
21 and the Committee on the Judiciary of the  
22 Senate and the Permanent Select Com-  
23 mittee on Intelligence and the Committee  
24 on the Judiciary of the House of Rep-  
25 resentatives;

1                   “(ii) report the good faith estimate for  
2                   those relevant elements able to provide  
3                   such good faith estimate;

4                   “(iii) explain when it is reasonably an-  
5                   ticipated that such an estimate will be able  
6                   to be determined fully and accurately; and

7                   “(iv) make such certification publicly  
8                   available on an Internet Web site.

9                   “(B) FORM.—A certification described in  
10                  subparagraph (A) shall be prepared in unclassi-  
11                  fied form, but may contain a classified annex.

12                  “(C) TIMING.—If the Director of National  
13                  Intelligence continues to conclude that the good  
14                  faith estimates described in this paragraph can-  
15                  not be determined accurately, the Director shall  
16                  annually submit a certification in accordance  
17                  with this paragraph.

18                  “(e) DEFINITIONS.—In this section:

19                  “(1) CONTENTS.—The term ‘contents’ has the  
20                  meaning given that term under section 2510 of title  
21                  18, United States Code.

22                  “(2) ELECTRONIC COMMUNICATION.—The term  
23                  ‘electronic communication’ has the meaning given  
24                  that term under section 2510 of title 18, United  
25                  States Code.

1           “(3) NATIONAL SECURITY LETTER.—The term  
2           ‘national security letter’ means a request for a re-  
3           port, records, or other information under—

4                   “(A) section 2709 of title 18, United  
5           States Code;

6                   “(B) section 1114(a)(5)(A) of the Right to  
7           Financial Privacy Act of 1978 (12 U.S.C.  
8           3414(a)(5)(A));

9                   “(C) subsection (a) or (b) of section 626 of  
10          the Fair Credit Reporting Act (15 U.S.C.  
11          1681u(a), 1681u(b)); or

12                   “(D) section 627(a) of the Fair Credit Re-  
13          porting Act (15 U.S.C. 1681v(a)).

14           “(4) UNITED STATES PERSON.—The term  
15           ‘United States person’ means a citizen of the United  
16           States or an alien lawfully admitted for permanent  
17           residence (as defined in section 101(a) of the Immi-  
18           gration and Nationality Act (8 U.S.C. 1101(a))).

19           “(5) WIRE COMMUNICATION.—The term ‘wire  
20           communication’ has the meaning given that term  
21           under section 2510 of title 18, United States  
22           Code.”.

23           (b) TABLE OF CONTENTS AMENDMENT.—The table  
24           of contents, as amended by section 402 of this Act, is fur-  
25           ther amended by inserting after the item relating to sec-

1 tion 602, as added by section 402 of this Act, the following  
2 new item:

“Sec. 603. Annual reports.”.

3 (c) PUBLIC REPORTING ON NATIONAL SECURITY  
4 LETTERS.—Section 118(c) of the USA PATRIOT Im-  
5 provement and Reauthorization Act of 2005 (18 U.S.C.  
6 3511 note) is amended—

7 (1) in paragraph (1)—

8 (A) in the matter preceding subparagraph  
9 (A), by striking “United States”; and

10 (B) in subparagraph (A), by striking “, ex-  
11 cluding the number of requests for subscriber  
12 information”;

13 (2) by redesignating paragraph (2) as para-  
14 graph (3); and

15 (3) by inserting after paragraph (1) the fol-  
16 lowing:

17 “(2) CONTENT.—

18 “(A) IN GENERAL.—Except as provided in  
19 subparagraph (B), each report required under  
20 this subsection shall include a good faith esti-  
21 mate of the total number of requests described  
22 in paragraph (1) requiring disclosure of infor-  
23 mation concerning—

24 “(i) United States persons; and



1                   “(ii) persons who are not United  
2                   States persons.

3                   “(B) EXCEPTION.—With respect to the  
4                   number of requests for subscriber information  
5                   under section 2709 of title 18, United States  
6                   Code, a report required under this subsection  
7                   need not separate the number of requests into  
8                   each of the categories described in subpara-  
9                   graph (A).”.

10                  (d) STORED COMMUNICATIONS.—Section 2702(d) of  
11 title 18, United States Code, is amended—

12                   (1) in paragraph (1), by striking “; and” and  
13                   inserting a semicolon;

14                   (2) in paragraph (2)(B), by striking the period  
15                   and inserting “; and”; and

16                   (3) by adding at the end the following new  
17                   paragraph:

18                   “(3) the number of accounts from which the  
19                   Department of Justice has received voluntary disclo-  
20                   sures under subsection (c)(4).”.

21 **SEC. 603. PUBLIC REPORTING BY PERSONS SUBJECT TO**  
22 **FISA ORDERS.**

23                   (a) IN GENERAL.—Title VI (50 U.S.C. 1871 et seq.),  
24 as amended by sections 402 and 602 of this Act, is further  
25 amended by adding at the end the following new section:

1 **“SEC. 604. PUBLIC REPORTING BY PERSONS SUBJECT TO**  
2 **ORDERS.**

3 “(a) REPORTING.—A person subject to a nondisclo-  
4 sure requirement accompanying an order or directive  
5 under this Act or a national security letter may, with re-  
6 spect to such order, directive, or national security letter,  
7 publicly report the following information using one of the  
8 following structures:

9 “(1) A semiannual report that aggregates the  
10 number of orders, directives, or national security let-  
11 ters with which the person was required to comply  
12 into separate categories of—

13 “(A) the number of national security let-  
14 ters received, reported in bands of 1000 start-  
15 ing with 0–999;

16 “(B) the number of customer selectors tar-  
17 getted by national security letters, reported in  
18 bands of 1000 starting with 0–999;

19 “(C) the number of orders or directives re-  
20 ceived, combined, under this Act for contents,  
21 reported in bands of 1000 starting with 0–999;

22 “(D) the number of customer selectors tar-  
23 getted under orders or directives received, com-  
24 bined, under this Act for contents reported in  
25 bands of 1000 starting with 0–999;

1           “(E) the number of orders received under  
2 this Act for noncontents, reported in bands of  
3 1000 starting with 0–999; and

4           “(F) the number of customer selectors tar-  
5 geted under orders under this Act for noncon-  
6 tents, reported in bands of 1000 starting with  
7 0–999, pursuant to—

8                   “(i) title IV;

9                   “(ii) title V with respect to applica-  
10 tions described in section 501(b)(2)(B);  
11 and

12                   “(iii) title V with respect to applica-  
13 tions described in section 501(b)(2)(C).

14           “(2) A semiannual report that aggregates the  
15 number of orders, directives, or national security let-  
16 ters with which the person was required to comply  
17 into separate categories of—

18                   “(A) the number of national security let-  
19 ters received, reported in bands of 500 starting  
20 with 0–499;

21                   “(B) the number of customer selectors tar-  
22 geted by national security letters, reported in  
23 bands of 500 starting with 0–499;

1           “(C) the number of orders or directives re-  
2           ceived, combined, under this Act for contents,  
3           reported in bands of 500 starting with 0–499;

4           “(D) the number of customer selectors tar-  
5           geted under orders or directives received, com-  
6           bined, under this Act for contents, reported in  
7           bands of 500 starting with 0–499;

8           “(E) the number of orders received under  
9           this Act for noncontents, reported in bands of  
10          500 starting with 0–499; and

11          “(F) the number of customer selectors tar-  
12          geted under orders received under this Act for  
13          noncontents, reported in bands of 500 starting  
14          with 0–499.

15          “(3) A semiannual report that aggregates the  
16          number of orders, directives, or national security let-  
17          ters with which the person was required to comply  
18          in the into separate categories of—

19                 “(A) the total number of all national secu-  
20                 rity process received, including all national se-  
21                 curity letters, and orders or directives under  
22                 this Act, combined, reported in bands of 250  
23                 starting with 0–249; and

24                 “(B) the total number of customer selec-  
25                 tors targeted under all national security process

1 received, including all national security letters,  
2 and orders or directives under this Act, com-  
3 bined, reported in bands of 250 starting with  
4 0–249.

5 “(4) An annual report that aggregates the  
6 number of orders, directives, and national security  
7 letters the person was required to comply with into  
8 separate categories of—

9 “(A) the total number of all national secu-  
10 rity process received, including all national se-  
11 curity letters, and orders or directives under  
12 this Act, combined, reported in bands of 100  
13 starting with 0–99; and

14 “(B) the total number of customer selec-  
15 tors targeted under all national security process  
16 received, including all national security letters,  
17 and orders or directives under this Act, com-  
18 bined, reported in bands of 100 starting with  
19 0–99.

20 “(b) PERIOD OF TIME COVERED BY REPORTS.—

21 “(1) A report described in paragraph (1) or (2)  
22 of subsection (a) shall include only information—

23 “(A) relating to national security letters  
24 for the previous 180 days; and

1           “(B) relating to authorities under this Act  
2           for the 180-day period of time ending on the  
3           date that is not less than 180 days prior to the  
4           date of the publication of such report, except  
5           that with respect to a platform, product, or  
6           service for which a person did not previously re-  
7           ceive an order or directive (not including an en-  
8           hancement to or iteration of an existing publicly  
9           available platform, product, or service) such re-  
10          port shall not include any information relating  
11          to such new order or directive until 540 days  
12          after the date on which such new order or di-  
13          rective is received.

14          “(2) A report described in paragraph (3) of  
15          subsection (a) shall include only information relating  
16          to the previous 180 days.

17          “(3) A report described in paragraph (4) of  
18          subsection (a) shall include only information for the  
19          1-year period of time ending on the date that is not  
20          less than 1 year prior to the date of the publication  
21          of such report.

22          “(c) OTHER FORMS OF AGREED TO PUBLICATION.—  
23          Nothing in this section prohibits the Government and any  
24          person from jointly agreeing to the publication of informa-

1 tion referred to in this subsection in a time, form, or man-  
2 ner other than as described in this section.

3 “(d) DEFINITIONS.—In this section:

4 “(1) CONTENTS.—The term ‘contents’ has the  
5 meaning given that term under section 2510 of title  
6 18, United States Code.

7 “(2) NATIONAL SECURITY LETTER.—The term  
8 ‘national security letter’ has the meaning given that  
9 term under section 603.”.

10 (b) TABLE OF CONTENTS AMENDMENT.—The table  
11 of contents, as amended by sections 402 and 602 of this  
12 Act, is further amended by inserting after the item relat-  
13 ing to section 603, as added by section 602 of this Act,  
14 the following new item:

“Sec. 604. Public reporting by persons subject to orders.”.

15 **SEC. 604. REPORTING REQUIREMENTS FOR DECISIONS, OR-**  
16 **DERS, AND OPINIONS OF THE FOREIGN IN-**  
17 **TELLIGENCE SURVEILLANCE COURT AND**  
18 **THE FOREIGN INTELLIGENCE SURVEIL-**  
19 **LANCE COURT OF REVIEW.**

20 Section 601(c)(1) (50 U.S.C. 1871(c)(1)) is amended  
21 to read as follows:

22 “(1) not later than 45 days after the date on  
23 which the Foreign Intelligence Surveillance Court or  
24 the Foreign Intelligence Surveillance Court of Re-  
25 view issues a decision, order, or opinion, including

1 any denial or modification of an application under  
2 this Act, that includes significant construction or in-  
3 terpretation of any provision of law or results in a  
4 change of application of any provision of this Act or  
5 a novel application of any provision of this Act, a  
6 copy of such decision, order, or opinion and any  
7 pleadings, applications, or memoranda of law associ-  
8 ated with such decision, order, or opinion; and”.

9 **SEC. 605. SUBMISSION OF REPORTS UNDER FISA.**

10 (a) **ELECTRONIC SURVEILLANCE.**—Section 108(a)(1)  
11 (50 U.S.C. 1808(a)(1)) is amended by striking “the  
12 House Permanent Select Committee on Intelligence and  
13 the Senate Select Committee on Intelligence, and the  
14 Committee on the Judiciary of the Senate,” and inserting  
15 “the Permanent Select Committee on Intelligence and the  
16 Committee on the Judiciary of the House of Representa-  
17 tives and the Select Committee on Intelligence and the  
18 Committee on the Judiciary of the Senate”.

19 (b) **PHYSICAL SEARCHES.**—The matter preceding  
20 paragraph (1) of section 306 (50 U.S.C. 1826) is amend-  
21 ed—

22 (1) in the first sentence, by striking “Perma-  
23 nent Select Committee on Intelligence of the House  
24 of Representatives and the Select Committee on In-  
25 telligence of the Senate, and the Committee on the



1       Judiciary of the Senate,” and inserting “Permanent  
2       Select Committee on Intelligence and the Committee  
3       on the Judiciary of the House of Representatives  
4       and the Select Committee on Intelligence and the  
5       Committee on the Judiciary of the Senate”; and

6               (2) in the second sentence, by striking “and the  
7       Committee on the Judiciary of the House of Rep-  
8       resentatives”.

9       (c) PEN REGISTERS AND TRAP AND TRACE DE-  
10      VICES.—Section 406(b) (50 U.S.C. 1846(b)) is amend-  
11      ed—

12             (1) in paragraph (2), by striking “; and” and  
13      inserting a semicolon;

14             (2) in paragraph (3), by striking the period and  
15      inserting a semicolon; and

16             (3) by adding at the end the following new  
17      paragraphs:

18             “(4) each department or agency on behalf of  
19      which the Attorney General or a designated attorney  
20      for the Government has made an application for an  
21      order authorizing or approving the installation and  
22      use of a pen register or trap and trace device under  
23      this title; and

1           “(5) for each department or agency described in  
2           paragraph (4), each number described in paragraphs  
3           (1), (2), and (3).”.

4           (d) ACCESS TO CERTAIN BUSINESS RECORDS AND  
5 OTHER TANGIBLE THINGS.—Section 502(a) (50 U.S.C.  
6 1862(a)) is amended by striking “Permanent Select Com-  
7 mittee on Intelligence of the House of Representatives and  
8 the Select Committee on Intelligence and the Committee  
9 on the Judiciary of the Senate” and inserting “Permanent  
10 Select Committee on Intelligence and the Committee on  
11 the Judiciary of the House of Representatives and the Se-  
12 lect Committee on Intelligence and the Committee on the  
13 Judiciary of the Senate”.

14 **TITLE VII—ENHANCED NA-**  
15 **TIONAL SECURITY PROVI-**  
16 **SIONS**

17 **SEC. 701. EMERGENCIES INVOLVING NON-UNITED STATES**  
18 **PERSONS.**

19           (a) IN GENERAL.—Section 105 (50 U.S.C. 1805) is  
20 amended—

21           (1) by redesignating subsections (f), (g), (h),  
22           and (i) as subsections (g), (h), (i), and (j), respec-  
23           tively; and

24           (2) by inserting after subsection (e) the fol-  
25           lowing:

1       “(f)(1) Notwithstanding any other provision of this  
2 Act, the lawfully authorized targeting of a non-United  
3 States person previously believed to be located outside the  
4 United States for the acquisition of foreign intelligence in-  
5 formation may continue for a period not to exceed 72  
6 hours from the time that the non-United States person  
7 is reasonably believed to be located inside the United  
8 States and the acquisition is subject to this title or to title  
9 III of this Act, provided that the head of an element of  
10 the intelligence community—

11               “(A) reasonably determines that a lapse in the  
12 targeting of such non-United States person poses a  
13 threat of death or serious bodily harm to any per-  
14 son;

15               “(B) promptly notifies the Attorney General of  
16 a determination under subparagraph (A); and

17               “(C) requests, as soon as practicable, the em-  
18 ployment of emergency electronic surveillance under  
19 subsection (e) or the employment of an emergency  
20 physical search pursuant to section 304(e), as war-  
21 ranted.

22       “(2) The authority under this subsection to continue  
23 the acquisition of foreign intelligence information is lim-  
24 ited to a period not to exceed 72 hours and shall cease  
25 upon the earlier of the following:

1           “(A) The employment of emergency electronic  
2 surveillance under subsection (e) or the employment  
3 of an emergency physical search pursuant to section  
4 304(e).

5           “(B) An issuance of a court order under this  
6 title or title III of this Act.

7           “(C) The Attorney General provides direction  
8 that the acquisition be terminated.

9           “(D) The head of the element of the intel-  
10 ligence community conducting the acquisition deter-  
11 mines that a request under paragraph (1)(C) is not  
12 warranted.

13           “(E) When the threat of death or serious bodily  
14 harm to any person is no longer reasonably believed  
15 to exist.

16           “(3) Nonpublicly available information concerning  
17 unconsenting United States persons acquired under this  
18 subsection shall not be disseminated during the 72 hour  
19 time period under paragraph (1) unless necessary to inves-  
20 tigate, reduce, or eliminate the threat of death or serious  
21 bodily harm to any person.

22           “(4) If the Attorney General declines to authorize the  
23 employment of emergency electronic surveillance under  
24 subsection (e) or the employment of an emergency physical  
25 search pursuant to section 304(e), or a court order is not

1 obtained under this title or title III of this Act, informa-  
2 tion obtained during the 72 hour acquisition time period  
3 under paragraph (1) shall not be retained, except with the  
4 approval of the Attorney General if the information indi-  
5 cates a threat of death or serious bodily harm to any per-  
6 son.

7 “(5) Paragraphs (5) and (6) of subsection (e) shall  
8 apply to this subsection.”.

9 (b) NOTIFICATION OF EMERGENCY EMPLOYMENT OF  
10 ELECTRONIC SURVEILLANCE.—Section 106(j) (50 U.S.C.  
11 1806(j)) is amended by striking “section 105(e)” and in-  
12 serting “subsection (e) or (f) of section 105”.

13 (c) REPORT TO CONGRESS.—Section 108(a)(2) (50  
14 U.S.C. 1808(a)(2)) is amended—

15 (1) in subparagraph (B), by striking “and” at  
16 the end;

17 (2) in subparagraph (C), by striking the period  
18 at the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(D) the total number of authorizations  
21 under section 105(f) and the total number of  
22 subsequent emergency employments of elec-  
23 tronic surveillance under section 105(e) or  
24 emergency physical searches pursuant to section  
25 301(e).”.

1 **SEC. 702. PRESERVATION OF TREATMENT OF NON-UNITED**  
2 **STATES PERSONS TRAVELING OUTSIDE THE**  
3 **UNITED STATES AS AGENTS OF FOREIGN**  
4 **POWERS.**

5 Section 101(b)(1) is amended—

6 (1) in subparagraph (A), by inserting before the  
7 semicolon at the end the following: “, irrespective of  
8 whether the person is inside the United States”; and

9 (2) in subparagraph (B)—

10 (A) by striking “of such person’s presence  
11 in the United States”; and

12 (B) by striking “such activities in the  
13 United States” and inserting “such activities”.

14 **SEC. 703. IMPROVEMENT TO INVESTIGATIONS OF INTER-**  
15 **NATIONAL PROLIFERATION OF WEAPONS OF**  
16 **MASS DESTRUCTION.**

17 Section 101(b)(1) is further amended by striking sub-  
18 paragraph (E) and inserting the following new subpara-  
19 graph (E):

20 “(E) engages in the international prolifera-  
21 tion of weapons of mass destruction, or activi-  
22 ties in preparation therefor, for or on behalf of  
23 a foreign power, or knowingly aids or abets any  
24 person in the conduct of such proliferation or  
25 activities in preparation therefor, or knowingly  
26 conspires with any person to engage in such

1 proliferation or activities in preparation there-  
2 for; or”.

3 **SEC. 704. INCREASE IN PENALTIES FOR MATERIAL SUP-**  
4 **PORT OF FOREIGN TERRORIST ORGANIZA-**  
5 **TIONS.**

6 Section 2339B(a)(1) of title 18, United States Code,  
7 is amended by striking “15 years” and inserting “20  
8 years”.

9 **SEC. 705. SUNSETS.**

10 (a) USA PATRIOT IMPROVEMENT AND REAUTHOR-  
11 IZATION ACT OF 2005.—Section 102(b)(1) of the USA  
12 PATRIOT Improvement and Reauthorization Act of 2005  
13 (50 U.S.C. 1805 note) is amended by striking “June 1,  
14 2015” and inserting “December 15, 2019”.

15 (b) INTELLIGENCE REFORM AND TERRORISM PRE-  
16 VENTION ACT OF 2004.—Section 6001(b)(1) of the Intel-  
17 ligence Reform and Terrorism Prevention Act of 2004 (50  
18 U.S.C. 1801 note) is amended by striking “June 1, 2015”  
19 and inserting “December 15, 2019”.

20 (c) CONFORMING AMENDMENT.—Section 102(b)(1)  
21 of the USA PATRIOT Improvement and Reauthorization  
22 Act of 2005 (50 U.S.C. 1805 note), as amended by sub-  
23 section (a), is further amended by striking “sections 501,  
24 502, and” and inserting “title V and section”.

1 **TITLE VIII—SAFETY OF MARI-**  
2 **TIME NAVIGATION AND NU-**  
3 **CLEAR TERRORISM CONVEN-**  
4 **TIONS IMPLEMENTATION**  
5 **Subtitle A—Safety of Maritime**  
6 **Navigation**

7 **SEC. 801. AMENDMENT TO SECTION 2280 OF TITLE 18,**  
8 **UNITED STATES CODE.**

9 Section 2280 of title 18, United States Code, is  
10 amended—

11 (1) in subsection (b)—

12 (A) in paragraph (1)(A)(i), by striking “a  
13 ship flying the flag of the United States” and  
14 inserting “a vessel of the United States or a  
15 vessel subject to the jurisdiction of the United  
16 States (as defined in section 70502 of title  
17 46)”;

18 (B) in paragraph (1)(A)(ii), by inserting “,  
19 including the territorial seas” after “in the  
20 United States”; and

21 (C) in paragraph (1)(A)(iii), by inserting  
22 “, by a United States corporation or legal enti-  
23 ty,” after “by a national of the United States”;

24 (2) in subsection (c), by striking “section 2(c)”  
25 and inserting “section 13(c)”;



1 (3) by striking subsection (d);

2 (4) by striking subsection (e) and inserting  
3 after subsection (c) the following:

4 “(d) DEFINITIONS.—As used in this section, section  
5 2280a, section 2281, and section 2281a, the term—

6 “(1) ‘applicable treaty’ means—

7 “(A) the Convention for the Suppression of  
8 Unlawful Seizure of Aircraft, done at The  
9 Hague on 16 December 1970;

10 “(B) the Convention for the Suppression of  
11 Unlawful Acts against the Safety of Civil Avia-  
12 tion, done at Montreal on 23 September 1971;

13 “(C) the Convention on the Prevention and  
14 Punishment of Crimes against Internationally  
15 Protected Persons, including Diplomatic  
16 Agents, adopted by the General Assembly of the  
17 United Nations on 14 December 1973;

18 “(D) International Convention against the  
19 Taking of Hostages, adopted by the General  
20 Assembly of the United Nations on 17 Decem-  
21 ber 1979;

22 “(E) the Convention on the Physical Pro-  
23 tection of Nuclear Material, done at Vienna on  
24 26 October 1979;

1           “(F) the Protocol for the Suppression of  
2           Unlawful Acts of Violence at Airports Serving  
3           International Civil Aviation, supplementary to  
4           the Convention for the Suppression of Unlawful  
5           Acts against the Safety of Civil Aviation, done  
6           at Montreal on 24 February 1988;

7           “(G) the Protocol for the Suppression of  
8           Unlawful Acts against the Safety of Fixed Plat-  
9           forms Located on the Continental Shelf, done  
10          at Rome on 10 March 1988;

11          “(H) International Convention for the  
12          Suppression of Terrorist Bombings, adopted by  
13          the General Assembly of the United Nations on  
14          15 December 1997; and

15          “(I) International Convention for the Sup-  
16          pression of the Financing of Terrorism, adopted  
17          by the General Assembly of the United Nations  
18          on 9 December 1999;

19          “(2) ‘armed conflict’ does not include internal  
20          disturbances and tensions, such as riots, isolated  
21          and sporadic acts of violence, and other acts of a  
22          similar nature;

23          “(3) ‘biological weapon’ means—

24                  “(A) microbial or other biological agents,  
25                  or toxins whatever their origin or method of

1 production, of types and in quantities that have  
2 no justification for prophylactic, protective, or  
3 other peaceful purposes; or

4 “(B) weapons, equipment, or means of de-  
5 livery designed to use such agents or toxins for  
6 hostile purposes or in armed conflict;

7 “(4) ‘chemical weapon’ means, together or sepa-  
8 rately—

9 “(A) toxic chemicals and their precursors,  
10 except where intended for—

11 “(i) industrial, agricultural, research,  
12 medical, pharmaceutical, or other peaceful  
13 purposes;

14 “(ii) protective purposes, namely those  
15 purposes directly related to protection  
16 against toxic chemicals and to protection  
17 against chemical weapons;

18 “(iii) military purposes not connected  
19 with the use of chemical weapons and not  
20 dependent on the use of the toxic prop-  
21 erties of chemicals as a method of warfare;  
22 or

23 “(iv) law enforcement including do-  
24 mestic riot control purposes,

1 as long as the types and quantities are con-  
2 sistent with such purposes;

3 “(B) munitions and devices, specifically de-  
4 signed to cause death or other harm through  
5 the toxic properties of those toxic chemicals  
6 specified in subparagraph (A), which would be  
7 released as a result of the employment of such  
8 munitions and devices; and

9 “(C) any equipment specifically designed  
10 for use directly in connection with the employ-  
11 ment of munitions and devices specified in sub-  
12 paragraph (B);

13 “(5) ‘covered ship’ means a ship that is navi-  
14 gating or is scheduled to navigate into, through or  
15 from waters beyond the outer limit of the territorial  
16 sea of a single country or a lateral limit of that  
17 country’s territorial sea with an adjacent country;

18 “(6) ‘explosive material’ has the meaning given  
19 the term in section 841(c) and includes explosive as  
20 defined in section 844(j) of this title;

21 “(7) ‘infrastructure facility’ has the meaning  
22 given the term in section 2332f(e)(5) of this title;

23 “(8) ‘international organization’ has the mean-  
24 ing given the term in section 831(f)(3) of this title;

1           “(9) ‘military forces of a state’ means the  
2 armed forces of a state which are organized, trained,  
3 and equipped under its internal law for the primary  
4 purpose of national defense or security, and persons  
5 acting in support of those armed forces who are  
6 under their formal command, control, and responsi-  
7 bility;

8           “(10) ‘national of the United States’ has the  
9 meaning stated in section 101(a)(22) of the Immi-  
10 gration and Nationality Act (8 U.S.C. 1101(a)(22));

11           “(11) ‘Non-Proliferation Treaty’ means the  
12 Treaty on the Non-Proliferation of Nuclear Weap-  
13 ons, done at Washington, London, and Moscow on  
14 1 July 1968;

15           “(12) ‘Non-Proliferation Treaty State Party’  
16 means any State Party to the Non-Proliferation  
17 Treaty, to include Taiwan, which shall be considered  
18 to have the obligations under the Non-Proliferation  
19 Treaty of a party to that treaty other than a Nu-  
20 clear Weapon State Party to the Non-Proliferation  
21 Treaty;

22           “(13) ‘Nuclear Weapon State Party to the Non-  
23 Proliferation Treaty’ means a State Party to the  
24 Non-Proliferation Treaty that is a nuclear-weapon

1 State, as that term is defined in Article IX(3) of the  
2 Non-Proliferation Treaty;

3 “(14) ‘place of public use’ has the meaning  
4 given the term in section 2332f(e)(6) of this title;

5 “(15) ‘precursor’ has the meaning given the  
6 term in section 229F(6)(A) of this title;

7 “(16) ‘public transport system’ has the meaning  
8 given the term in section 2332f(e)(7) of this title;

9 “(17) ‘serious injury or damage’ means—

10 “(A) serious bodily injury,

11 “(B) extensive destruction of a place of  
12 public use, State or government facility, infra-  
13 structure facility, or public transportation sys-  
14 tem, resulting in major economic loss, or

15 “(C) substantial damage to the environ-  
16 ment, including air, soil, water, fauna, or flora;

17 “(18) ‘ship’ means a vessel of any type whatso-  
18 ever not permanently attached to the sea-bed, in-  
19 cluding dynamically supported craft, submersibles,  
20 or any other floating craft, but does not include a  
21 warship, a ship owned or operated by a government  
22 when being used as a naval auxiliary or for customs  
23 or police purposes, or a ship which has been with-  
24 drawn from navigation or laid up;

1           “(19) ‘source material’ has the meaning given  
2 that term in the International Atomic Energy Agen-  
3 cy Statute, done at New York on 26 October 1956;

4           “(20) ‘special fissionable material’ has the  
5 meaning given that term in the International Atomic  
6 Energy Agency Statute, done at New York on 26  
7 October 1956;

8           “(21) ‘territorial sea of the United States’  
9 means all waters extending seaward to 12 nautical  
10 miles from the baselines of the United States deter-  
11 mined in accordance with international law;

12           “(22) ‘toxic chemical’ has the meaning given  
13 the term in section 229F(8)(A) of this title;

14           “(23) ‘transport’ means to initiate, arrange or  
15 exercise effective control, including decisionmaking  
16 authority, over the movement of a person or item;  
17 and

18           “(24) ‘United States’, when used in a geo-  
19 graphical sense, includes the Commonwealth of  
20 Puerto Rico, the Commonwealth of the Northern  
21 Mariana Islands, and all territories and possessions  
22 of the United States.”; and

23           (5) by inserting after subsection (d) (as added  
24 by paragraph (4) of this section) the following:

25           “(e) EXCEPTIONS.—This section shall not apply to—

1           “(1) the activities of armed forces during an  
2           armed conflict, as those terms are understood under  
3           the law of war, which are governed by that law; or

4           “(2) activities undertaken by military forces of  
5           a state in the exercise of their official duties.

6           “(f) DELIVERY OF SUSPECTED OFFENDER.—The  
7           master of a covered ship flying the flag of the United  
8           States who has reasonable grounds to believe that there  
9           is on board that ship any person who has committed an  
10          offense under section 2280 or section 2280a may deliver  
11          such person to the authorities of a country that is a party  
12          to the Convention for the Suppression of Unlawful Acts  
13          against the Safety of Maritime Navigation. Before deliv-  
14          ering such person to the authorities of another country,  
15          the master shall notify in an appropriate manner the At-  
16          torney General of the United States of the alleged offense  
17          and await instructions from the Attorney General as to  
18          what action to take. When delivering the person to a coun-  
19          try which is a state party to the Convention, the master  
20          shall, whenever practicable, and if possible before entering  
21          the territorial sea of such country, notify the authorities  
22          of such country of the master’s intention to deliver such  
23          person and the reasons therefor. If the master delivers  
24          such person, the master shall furnish to the authorities



1 of such country the evidence in the master's possession  
2 that pertains to the alleged offense.

3 “(g)(1) CIVIL FORFEITURE.—Any real or personal  
4 property used or intended to be used to commit or to fa-  
5 cilitate the commission of a violation of this section, the  
6 gross proceeds of such violation, and any real or personal  
7 property traceable to such property or proceeds, shall be  
8 subject to forfeiture.

9 “(2) APPLICABLE PROCEDURES.—Seizures and for-  
10 feitures under this section shall be governed by the provi-  
11 sions of chapter 46 of title 18, United States Code, relat-  
12 ing to civil forfeitures, except that such duties as are im-  
13 posed upon the Secretary of the Treasury under the cus-  
14 toms laws described in section 981(d) shall be performed  
15 by such officers, agents, and other persons as may be des-  
16 ignated for that purpose by the Secretary of Homeland  
17 Security, the Attorney General, or the Secretary of De-  
18 fense.”.

19 **SEC. 802. NEW SECTION 2280A OF TITLE 18, UNITED STATES**  
20 **CODE.**

21 (a) IN GENERAL.—Chapter 111 of title 18, United  
22 States Code, is amended by adding after section 2280 the  
23 following new section:

1 **“§ 2280a. Violence against maritime navigation and**  
2 **maritime transport involving weapons of**  
3 **mass destruction**

4 “(a) OFFENSES.—

5 “(1) IN GENERAL.—Subject to the exceptions in  
6 subsection (c), a person who unlawfully and inten-  
7 tionally—

8 “(A) when the purpose of the act, by its  
9 nature or context, is to intimidate a population,  
10 or to compel a government or an international  
11 organization to do or to abstain from doing any  
12 act—

13 “(i) uses against or on a ship or dis-  
14 charges from a ship any explosive or radio-  
15 active material, biological, chemical, or nu-  
16 clear weapon or other nuclear explosive de-  
17 vice in a manner that causes or is likely to  
18 cause death to any person or serious injury  
19 or damage;

20 “(ii) discharges from a ship oil, lique-  
21 fied natural gas, or another hazardous or  
22 noxious substance that is not covered by  
23 clause (i), in such quantity or concentra-  
24 tion that causes or is likely to cause death  
25 to any person or serious injury or damage;  
26 or

1           “(iii) uses a ship in a manner that  
2 causes death to any person or serious in-  
3 jury or damage;

4           “(B) transports on board a ship—

5           “(i) any explosive or radioactive mate-  
6 rial, knowing that it is intended to be used  
7 to cause, or in a threat to cause, death to  
8 any person or serious injury or damage for  
9 the purpose of intimidating a population,  
10 or compelling a government or an inter-  
11 national organization to do or to abstain  
12 from doing any act;

13           “(ii) any biological, chemical, or nu-  
14 clear weapon or other nuclear explosive de-  
15 vice, knowing it to be a biological, chem-  
16 ical, or nuclear weapon or other nuclear  
17 explosive device;

18           “(iii) any source material, special fis-  
19 sionable material, or equipment or material  
20 especially designed or prepared for the  
21 processing, use, or production of special  
22 fissionable material, knowing that it is in-  
23 tended to be used in a nuclear explosive ac-  
24 tivity or in any other nuclear activity not  
25 under safeguards pursuant to an Inter-

1 national Atomic Energy Agency com-  
2 prehensive safeguards agreement, except  
3 where—

4 “(I) such item is transported to  
5 or from the territory of, or otherwise  
6 under the control of, a Non-Prolifera-  
7 tion Treaty State Party; and

8 “(II) the resulting transfer or re-  
9 ceipt (including internal to a country)  
10 is not contrary to the obligations  
11 under the Non-Proliferation Treaty of  
12 the Non-Proliferation Treaty State  
13 Party from which, to the territory of  
14 which, or otherwise under the control  
15 of which such item is transferred;

16 “(iv) any equipment, materials, or  
17 software or related technology that signifi-  
18 cantly contributes to the design or manu-  
19 facture of a nuclear weapon or other nu-  
20 clear explosive device, with the intention  
21 that it will be used for such purpose, ex-  
22 cept where—

23 “(I) the country to the territory  
24 of which or under the control of which  
25 such item is transferred is a Nuclear

1           Weapon State Party to the Non-Pro-  
2           liferation Treaty; and

3                   “(II) the resulting transfer or re-  
4                   ceipt (including internal to a country)  
5                   is not contrary to the obligations  
6                   under the Non-Proliferation Treaty of  
7                   a Non-Proliferation Treaty State  
8                   Party from which, to the territory of  
9                   which, or otherwise under the control  
10                  of which such item is transferred;

11                  “(v) any equipment, materials, or  
12                  software or related technology that signifi-  
13                  cantly contributes to the delivery of a nu-  
14                  clear weapon or other nuclear explosive de-  
15                  vice, with the intention that it will be used  
16                  for such purpose, except where—

17                          “(I) such item is transported to  
18                          or from the territory of, or otherwise  
19                          under the control of, a Non-Prolifera-  
20                          tion Treaty State Party; and

21                          “(II) such item is intended for  
22                          the delivery system of a nuclear weap-  
23                          on or other nuclear explosive device of  
24                          a Nuclear Weapon State Party to the  
25                          Non-Proliferation Treaty; or

1           “(vi) any equipment, materials, or  
2           software or related technology that signifi-  
3           cantly contributes to the design, manufac-  
4           ture, or delivery of a biological or chemical  
5           weapon, with the intention that it will be  
6           used for such purpose;

7           “(C) transports another person on board a  
8           ship knowing that the person has committed an  
9           act that constitutes an offense under section  
10          2280 or subparagraph (A), (B), (D), or (E) of  
11          this section or an offense set forth in an appli-  
12          cable treaty, as specified in section 2280(d)(1),  
13          and intending to assist that person to evade  
14          criminal prosecution;

15          “(D) injures or kills any person in connec-  
16          tion with the commission or the attempted com-  
17          mission of any of the offenses set forth in sub-  
18          paragraphs (A) through (C), or subsection  
19          (a)(2), to the extent that the subsection (a)(2)  
20          offense pertains to subparagraph (A); or

21          “(E) attempts to do any act prohibited  
22          under subparagraph (A), (B) or (D), or con-  
23          spires to do any act prohibited by subpara-  
24          graphs (A) through (E) or subsection (a)(2),

1 shall be fined under this title, imprisoned not more  
2 than 20 years, or both; and if the death of any per-  
3 son results from conduct prohibited by this para-  
4 graph, shall be imprisoned for any term of years or  
5 for life.

6 “(2) THREATS.—A person who threatens, with  
7 apparent determination and will to carry the threat  
8 into execution, to do any act prohibited under para-  
9 graph (1)(A) shall be fined under this title, impris-  
10 oned not more than 5 years, or both.

11 “(b) JURISDICTION.—There is jurisdiction over the  
12 activity prohibited in subsection (a)—

13 “(1) in the case of a covered ship, if—

14 “(A) such activity is committed—

15 “(i) against or on board a vessel of  
16 the United States or a vessel subject to the  
17 jurisdiction of the United States (as de-  
18 fined in section 70502 of title 46) at the  
19 time the prohibited activity is committed;

20 “(ii) in the United States, including  
21 the territorial seas; or

22 “(iii) by a national of the United  
23 States, by a United States corporation or  
24 legal entity, or by a stateless person whose  
25 habitual residence is in the United States;

1           “(B) during the commission of such activ-  
2           ity, a national of the United States is seized,  
3           threatened, injured, or killed; or

4           “(C) the offender is later found in the  
5           United States after such activity is committed;

6           “(2) in the case of a ship navigating or sched-  
7           uled to navigate solely within the territorial sea or  
8           internal waters of a country other than the United  
9           States, if the offender is later found in the United  
10          States after such activity is committed; or

11          “(3) in the case of any vessel, if such activity  
12          is committed in an attempt to compel the United  
13          States to do or abstain from doing any act.

14          “(c) EXCEPTIONS.—This section shall not apply to—

15                 “(1) the activities of armed forces during an  
16                 armed conflict, as those terms are understood under  
17                 the law of war, which are governed by that law; or

18                 “(2) activities undertaken by military forces of  
19                 a state in the exercise of their official duties.

20          “(d)(1) CIVIL FORFEITURE.—Any real or personal  
21          property used or intended to be used to commit or to fa-  
22          cilitate the commission of a violation of this section, the  
23          gross proceeds of such violation, and any real or personal  
24          property traceable to such property or proceeds, shall be  
25          subject to forfeiture.



1       “(2) APPLICABLE PROCEDURES.—Seizures and for-  
2 feitures under this section shall be governed by the provi-  
3 sions of chapter 46 of title 18, United States Code, relat-  
4 ing to civil forfeitures, except that such duties as are im-  
5 posed upon the Secretary of the Treasury under the cus-  
6 toms laws described in section 981(d) shall be performed  
7 by such officers, agents, and other persons as may be des-  
8 ignated for that purpose by the Secretary of Homeland  
9 Security, the Attorney General, or the Secretary of De-  
10 fense.”.

11       (b) CONFORMING AMENDMENT.—The table of sec-  
12 tions at the beginning of chapter 111 of title 18, United  
13 States Code, is amended by adding after the item relating  
14 to section 2280 the following new item:

“2280a. Violence against maritime navigation and maritime transport involving  
weapons of mass destruction.”.

15 **SEC. 803. AMENDMENTS TO SECTION 2281 OF TITLE 18,**  
16 **UNITED STATES CODE.**

17       Section 2281 of title 18, United States Code, is  
18 amended—

19             (1) in subsection (c), by striking “section 2(c)”  
20             and inserting “section 13(c)”;

21             (2) in subsection (d), by striking the definitions  
22             of “national of the United States,” “territorial sea  
23             of the United States,” and “United States”; and



1 any explosive or radioactive material, bio-  
2 logical, chemical, or nuclear weapon in a  
3 manner that causes or is likely to cause  
4 death or serious injury or damage; or

5 “(ii) discharges from a fixed platform  
6 oil, liquefied natural gas, or another haz-  
7 ardous or noxious substance that is not  
8 covered by clause (i), in such quantity or  
9 concentration that causes or is likely to  
10 cause death or serious injury or damage;

11 “(B) injures or kills any person in connec-  
12 tion with the commission or the attempted com-  
13 mission of any of the offenses set forth in sub-  
14 paragraph (A); or

15 “(C) attempts or conspires to do anything  
16 prohibited under subparagraph (A) or (B),  
17 shall be fined under this title, imprisoned not more  
18 than 20 years, or both; and if death results to any  
19 person from conduct prohibited by this paragraph,  
20 shall be imprisoned for any term of years or for life.

21 “(2) THREAT TO SAFETY.—A person who  
22 threatens, with apparent determination and will to  
23 carry the threat into execution, to do any act prohib-  
24 ited under paragraph (1)(A), shall be fined under  
25 this title, imprisoned not more than 5 years, or both.

1       “(b) JURISDICTION.—There is jurisdiction over the  
2 activity prohibited in subsection (a) if—

3               “(1) such activity is committed against or on  
4 board a fixed platform—

5                       “(A) that is located on the continental  
6 shelf of the United States;

7                       “(B) that is located on the continental  
8 shelf of another country, by a national of the  
9 United States or by a stateless person whose  
10 habitual residence is in the United States; or

11                      “(C) in an attempt to compel the United  
12 States to do or abstain from doing any act;

13               “(2) during the commission of such activity  
14 against or on board a fixed platform located on a  
15 continental shelf, a national of the United States is  
16 seized, threatened, injured, or killed; or

17               “(3) such activity is committed against or on  
18 board a fixed platform located outside the United  
19 States and beyond the continental shelf of the  
20 United States and the offender is later found in the  
21 United States.

22       “(c) EXCEPTIONS.—This section does not apply to—

23               “(1) the activities of armed forces during an  
24 armed conflict, as those terms are understood under  
25 the law of war, which are governed by that law; or

1           “(2) activities undertaken by military forces of  
2 a state in the exercise of their official duties.

3           “(d) DEFINITIONS.—In this section—

4           “(1) ‘continental shelf’ means the sea-bed and  
5 subsoil of the submarine areas that extend beyond a  
6 country’s territorial sea to the limits provided by  
7 customary international law as reflected in Article  
8 76 of the 1982 Convention on the Law of the Sea;  
9 and

10           “(2) ‘fixed platform’ means an artificial island,  
11 installation, or structure permanently attached to  
12 the sea-bed for the purpose of exploration or exploi-  
13 tation of resources or for other economic purposes.”.

14           (b) CONFORMING AMENDMENT.—The table of sec-  
15 tions at the beginning of chapter 111 of title 18, United  
16 States Code, is amended by adding after the item relating  
17 to section 2281 the following new item:

“2281a. Additional offenses against maritime fixed platforms.”.

18 **SEC. 805. ANCILLARY MEASURE.**

19           Section 2332b(g)(5)(B) of title 18, United States  
20 Code, is amended by inserting “2280a (relating to mari-  
21 time safety),” before “2281”, and by striking “2281” and  
22 inserting “2281 through 2281a”.

1     **Subtitle B—Prevention of Nuclear**  
2                     **Terrorism**

3     **SEC. 811. NEW SECTION 2332I OF TITLE 18, UNITED STATES**  
4                     **CODE.**

5             (a) IN GENERAL.—Chapter 113B of title 18, United  
6 States Code, is amended by adding after section 2332h  
7 the following:

8     **“§ 2332i. Acts of nuclear terrorism**

9             “(a) OFFENSES.—

10                 “(1) IN GENERAL.—Whoever knowingly and  
11 unlawfully—

12                     “(A) possesses radioactive material or  
13 makes or possesses a device—

14                         “(i) with the intent to cause death or  
15 serious bodily injury; or

16                         “(ii) with the intent to cause substan-  
17 tial damage to property or the environ-  
18 ment; or

19                     “(B) uses in any way radioactive material  
20 or a device, or uses or damages or interferes  
21 with the operation of a nuclear facility in a  
22 manner that causes the release of or increases  
23 the risk of the release of radioactive material,  
24 or causes radioactive contamination or exposure  
25 to radiation—

1           “(i) with the intent to cause death or  
2           serious bodily injury or with the knowledge  
3           that such act is likely to cause death or se-  
4           rious bodily injury;

5           “(ii) with the intent to cause substan-  
6           tial damage to property or the environment  
7           or with the knowledge that such act is like-  
8           ly to cause substantial damage to property  
9           or the environment; or

10           “(iii) with the intent to compel a per-  
11           son, an international organization or a  
12           country to do or refrain from doing an act,  
13           shall be punished as prescribed in subsection  
14           (c).

15           “(2) THREATS.—Whoever, under circumstances  
16           in which the threat may reasonably be believed,  
17           threatens to commit an offense under paragraph (1)  
18           shall be punished as prescribed in subsection (c).  
19           Whoever demands possession of or access to radio-  
20           active material, a device or a nuclear facility by  
21           threat or by use of force shall be punished as pre-  
22           scribed in subsection (c).

23           “(3) ATTEMPTS AND CONSPIRACIES.—Whoever  
24           attempts to commit an offense under paragraph (1)  
25           or conspires to commit an offense under paragraph

1 (1) or (2) shall be punished as prescribed in sub-  
2 section (c).

3 “(b) JURISDICTION.—Conduct prohibited by sub-  
4 section (a) is within the jurisdiction of the United States  
5 if—

6 “(1) the prohibited conduct takes place in the  
7 United States or the special aircraft jurisdiction of  
8 the United States;

9 “(2) the prohibited conduct takes place outside  
10 of the United States and—

11 “(A) is committed by a national of the  
12 United States, a United States corporation or  
13 legal entity or a stateless person whose habitual  
14 residence is in the United States;

15 “(B) is committed on board a vessel of the  
16 United States or a vessel subject to the jurisdic-  
17 tion of the United States (as defined in section  
18 70502 of title 46) or on board an aircraft that  
19 is registered under United States law, at the  
20 time the offense is committed; or

21 “(C) is committed in an attempt to compel  
22 the United States to do or abstain from doing  
23 any act, or constitutes a threat directed at the  
24 United States;



1           “(3) the prohibited conduct takes place outside  
2           of the United States and a victim or an intended vic-  
3           tim is a national of the United States or a United  
4           States corporation or legal entity, or the offense is  
5           committed against any state or government facility  
6           of the United States; or

7           “(4) a perpetrator of the prohibited conduct is  
8           found in the United States.

9           “(c) PENALTIES.—Whoever violates this section shall  
10          be fined not more than \$2,000,000 and shall be impris-  
11          oned for any term of years or for life.

12          “(d) NONAPPLICABILITY.—This section does not  
13          apply to—

14                 “(1) the activities of armed forces during an  
15                 armed conflict, as those terms are understood under  
16                 the law of war, which are governed by that law; or

17                 “(2) activities undertaken by military forces of  
18                 a state in the exercise of their official duties.

19          “(e) DEFINITIONS.—As used in this section, the  
20          term—

21                 “(1) ‘armed conflict’ has the meaning given  
22                 that term in section 2332f(e)(11) of this title;

23                 “(2) ‘device’ means:

24                         “(A) any nuclear explosive device; or

1           “(B) any radioactive material dispersal or  
2           radiation-emitting device that may, owing to its  
3           radiological properties, cause death, serious  
4           bodily injury or substantial damage to property  
5           or the environment;

6           “(3) ‘international organization’ has the mean-  
7           ing given that term in section 831(f)(3) of this title;

8           “(4) ‘military forces of a state’ means the  
9           armed forces of a country that are organized,  
10          trained and equipped under its internal law for the  
11          primary purpose of national defense or security and  
12          persons acting in support of those armed forces who  
13          are under their formal command, control and re-  
14          sponsibility;

15          “(5) ‘national of the United States’ has the  
16          meaning given that term in section 101(a)(22) of  
17          the Immigration and Nationality Act (8 U.S.C.  
18          1101(a)(22));

19          “(6) ‘nuclear facility’ means:

20                 “(A) any nuclear reactor, including reac-  
21                 tors on vessels, vehicles, aircraft or space ob-  
22                 jects for use as an energy source in order to  
23                 propel such vessels, vehicles, aircraft or space  
24                 objects or for any other purpose;

1           “(B) any plant or conveyance being used  
2           for the production, storage, processing or trans-  
3           port of radioactive material; or

4           “(C) a facility (including associated build-  
5           ings and equipment) in which nuclear material  
6           is produced, processed, used, handled, stored or  
7           disposed of, if damage to or interference with  
8           such facility could lead to the release of signifi-  
9           cant amounts of radiation or radioactive mate-  
10          rial;

11          “(7) ‘nuclear material’ has the meaning given  
12          that term in section 831(f)(1) of this title;

13          “(8) ‘radioactive material’ means nuclear mate-  
14          rial and other radioactive substances that contain  
15          nuclides that undergo spontaneous disintegration (a  
16          process accompanied by emission of one or more  
17          types of ionizing radiation, such as alpha-, beta-,  
18          neutron particles and gamma rays) and that may,  
19          owing to their radiological or fissile properties, cause  
20          death, serious bodily injury or substantial damage to  
21          property or to the environment;

22          “(9) ‘serious bodily injury’ has the meaning  
23          given that term in section 831(f)(4) of this title;

1           “(10) ‘state’ has the same meaning as that  
2 term has under international law, and includes all  
3 political subdivisions thereof;

4           “(11) ‘state or government facility’ has the  
5 meaning given that term in section 2332f(e)(3) of  
6 this title;

7           “(12) ‘United States corporation or legal entity’  
8 means any corporation or other entity organized  
9 under the laws of the United States or any State,  
10 Commonwealth, territory, possession or district of  
11 the United States;

12           “(13) ‘vessel’ has the meaning given that term  
13 in section 1502(19) of title 33; and

14           “(14) ‘vessel of the United States’ has the  
15 meaning given that term in section 70502 of title  
16 46.”.

17       (b) CLERICAL AMENDMENT.—The table of sections  
18 at the beginning of chapter 113B of title 18, United  
19 States Code, is amended by inserting after the item relat-  
20 ing to section 2332h the following:

“2332i. Acts of nuclear terrorism.”.

21       (c) DISCLAIMER.—Nothing contained in this section  
22 is intended to affect the applicability of any other Federal  
23 or State law that might pertain to the underlying conduct.

24       (d) INCLUSION IN DEFINITION OF FEDERAL CRIMES  
25 OF TERRORISM.—Section 2332b(g)(5)(B) of title 18,

1 United States Code, is amended by inserting “2332i (re-  
2 lating to acts of nuclear terrorism),” before “2339 (relat-  
3 ing to harboring terrorists)”.

4 **SEC. 812. AMENDMENT TO SECTION 831 OF TITLE 18,**  
5 **UNITED STATES CODE.**

6 Section 831 of title 18, United States Code, is  
7 amended—

8 (a) in subsection (a)—

9 (1) by redesignating paragraphs (3) through  
10 (8) as paragraphs (4) through (9);

11 (2) by inserting after paragraph (2) the fol-  
12 lowing:

13 “(3) without lawful authority, intentionally car-  
14 ries, sends or moves nuclear material into or out of  
15 a country;”;

16 (3) in paragraph (8), as redesignated, by strik-  
17 ing “an offense under paragraph (1), (2), (3), or  
18 (4)” and inserting “any act prohibited under para-  
19 graphs (1) through (5)”; and

20 (4) in paragraph (9), as redesignated, by strik-  
21 ing “an offense under paragraph (1), (2), (3), or  
22 (4)” and inserting “any act prohibited under para-  
23 graphs (1) through (7)”;

24 (b) in subsection (b)—

1           (1) in paragraph (1), by striking “(7)” and in-  
2           serting “(8)”; and

3           (2) in paragraph (2), by striking “(8)” and in-  
4           serting “(9)”;  
5           (c) in subsection (c)—

6           (1) in subparagraph (2)(A), by adding after  
7           “United States” the following: “or a stateless person  
8           whose habitual residence is in the United States”;

9           (2) by striking paragraph (5);

10          (3) in paragraph (4), by striking “or” at the  
11          end; and

12          (4) by inserting after paragraph (4), the fol-  
13          lowing:

14               “(5) the offense is committed on board a vessel  
15               of the United States or a vessel subject to the juris-  
16               diction of the United States (as defined in section  
17               70502 of title 46) or on board an aircraft that is  
18               registered under United States law, at the time the  
19               offense is committed;

20               “(6) the offense is committed outside the  
21               United States and against any state or government  
22               facility of the United States; or

23               “(7) the offense is committed in an attempt to  
24               compel the United States to do or abstain from

1 doing any act, or constitutes a threat directed at the  
2 United States.”;

3 (d) by redesignating subsections (d) through (f) as  
4 (e) through (g), respectively;

5 (e) by inserting after subsection (c) the following:

6 “(d) NONAPPLICABILITY.—This section does not  
7 apply to—

8 “(1) the activities of armed forces during an  
9 armed conflict, as those terms are understood under  
10 the law of war, which are governed by that law; or

11 “(2) activities undertaken by military forces of  
12 a state in the exercise of their official duties.”; and  
13 (f) in subsection (g), as redesignated—

14 (1) in paragraph (6), by striking “and” at the  
15 end;

16 (2) in paragraph (7), by striking the period at  
17 the end and inserting a semicolon; and

18 (3) by inserting after paragraph (7), the fol-  
19 lowing:

20 “(8) the term ‘armed conflict’ has the meaning  
21 given that term in section 2332f(e)(11) of this title;

22 “(9) the term ‘military forces of a state’ means  
23 the armed forces of a country that are organized,  
24 trained and equipped under its internal law for the  
25 primary purpose of national defense or security and

1 persons acting in support of those armed forces who  
2 are under their formal command, control and re-  
3 sponsibility;

4 “(10) the term ‘state’ has the same meaning as  
5 that term has under international law, and includes  
6 all political subdivisions thereof;

7 “(11) the term ‘state or government facility’  
8 has the meaning given that term in section  
9 2332f(e)(3) of this title; and

10 “(12) the term ‘vessel of the United States’ has  
11 the meaning given that term in section 70502 of  
12 title 46.”.

Passed the House of Representatives May 13, 2015.

Attest:

KAREN L. HAAS,

*Clerk.*





Calendar No. 87

114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session  
**H. R. 2048**

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## **AN ACT**

To reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, and criminal purposes, and for other purposes.

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MAY 18, 2015

Read the second time and placed on the calendar