

119TH CONGRESS
2D SESSION

H. R. 6048

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2026

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To amend title 18, United States Code, to modify delayed
notice requirements, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “NDO Fairness Act
3 of 2025”.

4 **SEC. 2. PRECLUSION OF NOTICE.**

5 (a) IN GENERAL.—Section 2705(b) of title 18,
6 United States Code, is amended to read as follows:

7 “(b) PRECLUSION OF NOTICE.—

8 “(1) APPLICATION.—

9 “(A) IN GENERAL.—A governmental entity
10 that is seeking a warrant, order, or subpoena
11 under section 2703, when it is not required to
12 notify the customer or subscriber, or to the ex-
13 tent that it may delay such notice pursuant to
14 subsection (a), may apply to a court for an
15 order, subject to paragraph (6), directing a pro-
16 vider of electronic communications service or re-
17 mote computing service to which a warrant,
18 order, or subpoena under section 2703 is di-
19 rected not to notify any other person of the ex-
20 istence of the warrant, order, or subpoena.

21 “(B) LENGTH.—An order granted under
22 subparagraph (A) shall be in effect—

23 “(i) for a period of not more than 1
24 year if the nature of the offense for which
25 the governmental entity is seeking a war-
26 rant, order, or subpoena pertains to child

1 pornography, as defined in section 2256,
2 sexual exploitation of children under sec-
3 tion 2251, or any Federal, State, Tribal,
4 or military offense that is the substantial
5 equivalent; or

6 “(ii) for a period of not more than 90
7 days for all other investigations.

8 “(C) OTHER REQUIREMENTS.—

9 “(i) IN GENERAL.—An application for
10 an order under subparagraph (A) shall
11 state, to the best of the applicant’s knowl-
12 edge, whether the named customer or sub-
13 scriber whose information is sought by the
14 warrant, order, or subpoena under section
15 2703—

16 “(I) is aware of the warrant,
17 order, subpoena, or underlying inves-
18 tigation; and

19 “(II) is suspected of involvement
20 in the commission of the crime under
21 investigation.

22 “(ii) ORDERS.—An order granted
23 under this paragraph may not direct, or
24 otherwise require, a provider of electronic
25 communications service or remote com-

1 puting service to provide notification of the
2 expiration of order to the court or govern-
3 ment entity that sought the order.

4 “(2) DETERMINATION.—

5 “(A) IN GENERAL.—The court may not
6 grant a request for an order made under para-
7 graph (1), or an extension of such order re-
8 quested by the governmental entity pursuant to
9 paragraph (3), unless—

10 “(i) the court issues a written deter-
11 mination, based on specific and articulable
12 facts, and including written findings of
13 fact and conclusions of law, that it is likely
14 that not granting the request will result
15 in—

16 “(I) endangering the life or phys-
17 ical safety of an individual;

18 “(II) flight from prosecution;

19 “(III) destruction of or tam-
20 pering with evidence;

21 “(IV) intimidation of potential
22 witnesses; or

23 “(V) otherwise seriously jeopard-
24 izing an investigation or unduly delay-
25 ing a trial; and

1 “(ii) the order is narrowly tailored
2 and there is no less restrictive alternative,
3 including notification to an individual or
4 organization within or providing legal rep-
5 resentation to the named customer or sub-
6 scriber, that is not likely to result in an
7 adverse result as described in subclauses
8 (I) through (V) of subparagraph (A)(i);
9 and

10 “(iii) the court has reviewed the indi-
11 vidual warrant, order, or subpoena under
12 section 2703 to which the order issued
13 under this paragraph applies.

14 “(B) NATURE OF THE OFFENSE.—

15 “(i) IN GENERAL.—Subject to clause
16 (ii), the court may consider the nature of
17 the offense in issuing a determination
18 under subparagraph (A).

19 “(ii) PRESUMPTION.—If the court de-
20 termines there is a reasonable belief the
21 nature of the offense pertains to child por-
22 nography, as defined in section 2256, or
23 sexual exploitation of children, as described
24 in section 2251, or any Federal, including
25 military, State, or tribal offense that is the

1 substantial equivalent, the court may pre-
2 sume that one or more of the adverse re-
3 sults described in subclauses (I) through
4 (V) of subparagraph (A)(i) are met and
5 may issue an order consistent with this
6 subsection without a written decision under
7 subparagraph (A)(i).

8 “(3) EXTENSION.—A governmental entity may
9 request one or more extensions of an order granted
10 under paragraph (1) of not more than 90 days for
11 each such extension. The court may only grant such
12 an extension if the court makes a written determina-
13 tion required under paragraph (2)(A).

14 “(4) NOTIFICATION OF CHANGED CIR-
15 CUMSTANCES.—If the need for the order issued
16 under paragraph (1) changes materially, the govern-
17 mental entity that requested the order shall notify
18 the court within a reasonable period of time (not to
19 exceed 14 days) of the changed circumstances, and
20 the court shall reassess the order and modify or va-
21 cate as appropriate.

22 “(5) OPPORTUNITY TO BE HEARD.—

23 “(A) IN GENERAL.—Upon an application,
24 petition, or motion by a provider of electronic
25 communications service or remote computing

1 service or person acting on behalf of the pro-
2 vider to which an order under paragraph (1)
3 (or an extension under paragraph (3)) has been
4 issued, the court may modify or vacate the
5 order if—

6 “(i) the order does not meet require-
7 ments provided in paragraph (2) or (3); or

8 “(ii) compliance with the order is un-
9 reasonable or otherwise unlawful.

10 “(B) STAY OF DISCLOSURE OF NAMED
11 CUSTOMER OR SUBSCRIBER COMMUNICATIONS
12 OR RECORDS.—A provider’s obligation to dis-
13 close the information requested in the warrant,
14 order, or subpoena to which the order in para-
15 graph (1) applies is stayed for a period of 72
16 hours upon the filing of the application, peti-
17 tion, or motion under this paragraph, unless the
18 court with jurisdiction over the challenge deter-
19 mines, based on a showing by the provider or
20 the governmental entity, that the stay should be
21 extended or lifted in whole or in part prior to
22 resolution of the application, petition, or mo-
23 tion.

24 “(C) FINALITY OF ORDER.—The decision
25 of the court resolving an application, petition,

1 or motion under this paragraph shall constitute
2 a final, appealable order.

3 “(6) EXCEPTION.—A provider of electronic
4 communications service or remote computing service
5 to which an order under paragraph (1) applies, or
6 an officer, employee, or agent thereof, may disclose
7 information otherwise subject to any applicable non-
8 disclosure requirement to—

9 “(A) those persons to whom disclosure is
10 necessary in order to comply with the warrant,
11 order, or subpoena;

12 “(B) an attorney in order to obtain legal
13 advice or assistance regarding the order issued
14 under paragraph (1) or the warrant, order, or
15 subpoena to which the order applies; and

16 “(C) any person the court determines can
17 be notified of the warrant, order, or subpoena.

18 “(7) SCOPE OF NONDISCLOSURE.—Any person
19 to whom disclosure is made under paragraph (6)
20 (other than the governmental entity) shall be subject
21 to the nondisclosure requirements applicable to the
22 person to whom the order is issued. Any recipient
23 authorized under this subsection to disclose to a per-
24 son information otherwise subject to a nondisclosure

1 requirement shall notify the person of the applicable
2 nondisclosure requirement.

3 “(8) SUPPORTING DOCUMENTATION.—Upon
4 serving a provider of electronic communications serv-
5 ice or remote computing service with an order grant-
6 ed under paragraph (1), or an extension of such
7 order granted under paragraph (3), the govern-
8 mental entity shall include a copy of the warrant,
9 order, or subpoena to which the nondisclosure order
10 applies.

11 “(9) EXPIRATION OF ORDER PRECLUDING NO-
12 TICE.—Upon expiration of an order issued under
13 paragraph (1) or, if an extension has been granted
14 under paragraph (3), expiration of the extension, the
15 governmental entity shall deliver to the named cus-
16 tomer or subscriber, by at least 2 methods, which
17 shall be personal service, registered or first-class
18 mail, electronic mail, or other means approved by
19 the court as reasonably calculated to reach the
20 named customer or subscriber within 5 business
21 days of the expiration of the order—

22 “(A) a copy of the warrant, order, or sub-
23 poena; and

24 “(B) notice that informs the named cus-
25 tomer or subscriber—

1 “(i) of the nature of the law enforce-
2 ment inquiry with reasonable specificity;

3 “(ii) that information maintained for
4 such customer or subscriber by the pro-
5 vider of electronic communications service
6 or remote computing service to which the
7 warrant, order, or subpoena under section
8 2703, was directed was supplied to or re-
9 quested by the government entity;

10 “(iii) that notification of such cus-
11 tomer or subscriber was precluded by court
12 order;

13 “(iv) of the identity of the court au-
14 thorizing the preclusion of notice;

15 “(v) of the provision of this chapter
16 under which the preclusion of notice was
17 authorized; and

18 “(vi) that the government will, upon
19 request by the customer or subscriber
20 made within 180 days after receiving noti-
21 fication under this paragraph, provide the
22 named customer or subscriber with a copy
23 of the information that was disclosed in re-
24 sponse to the warrant, order or subpoena,
25 or in the event that no information was

1 disclosed, a written certification that no in-
2 formation was disclosed.

3 “(10) COPY OF INFORMATION DISCLOSED.—
4 Upon expiration of the order precluding notice
5 issued under paragraph (1) or (3) of this subsection,
6 and at the request of the named customer or sub-
7 scriber made within 180 days of receiving notifica-
8 tion under paragraph (9), the governmental entity
9 shall promptly provide the named customer or sub-
10 scriber—

11 “(A) with a copy of the information that
12 was disclosed in response to the warrant, order
13 or subpoena except—

14 “(i) illicit records;

15 “(ii) records or materials pertaining
16 to child pornography, as defined in section
17 2256, or sexual exploitation of children, as
18 described in section 2251, or any Federal,
19 including military, State, tribal, or offense
20 that is the substantial equivalent; or

21 “(iii) other illegal material; or

22 “(B) in the event that no information was
23 disclosed, a written certification that no infor-
24 mation was disclosed.

1 “(11) REDACTIONS.—Any information disclosed
2 pursuant to paragraphs (9) and (10) may be re-
3 dacted only if a court finds such redactions nec-
4 essary to preserve the secrecy or integrity of an in-
5 vestigation.”.

6 (b) ADDITIONAL PROVISIONS REGARDING DELAYED
7 NOTICE.—Section 2705 of title 18, United States Code,
8 is amended by adding at the end the following:

9 “(c) ANNUAL REPORT.—

10 “(1) IN GENERAL.—On an annual basis, the
11 Attorney General shall provide to the Committee on
12 the Judiciary of the House of Representatives, the
13 Committee on the Judiciary of the Senate, and the
14 Director of the Administrative Office of the United
15 States Courts, which the Attorney General shall
16 publish on the website of the Department of Justice,
17 in a manner consistent with protection of national
18 security, a report setting forth with respect to the
19 preceding calendar year, for each Federal judicial
20 district—

21 “(A) the number of named customers or
22 subscribers with respect to whom, in that cal-
23 endar year, a warrant, subpoena, or court order
24 was issued pursuant to section 2703;

1 “(B) the aggregate number of applications
2 requesting delay of notification pursuant to
3 subsection (a)(1), preclusion of notice pursuant
4 to subsection (b)(1), and extensions pursuant to
5 subsection (b)(3);

6 “(C) the aggregate number of orders under
7 this section either granting, extending, or deny-
8 ing a request for delay of notification or pre-
9 clusion of notice;

10 “(D) the aggregate number of orders
11 under this section affecting a member of the
12 news media, including any conduct related to
13 activities protected under the First Amendment;
14 and

15 “(E) the aggregate number of arrests,
16 trials, and convictions, resulting from investiga-
17 tions in which orders under this section were
18 obtained, including the offenses for which indi-
19 viduals were arrested, tried, or convicted.

20 “(2) PROCESS.—The Attorney General shall in-
21 clude in the report under this subsection a descrip-
22 tion of the process and the information used to de-

- 1 termine the numbers for each of subparagraphs (A)
- 2 through (E) or paragraph (1).”.

Passed the House of Representatives August 31,
2026.

Attest: KEVIN F. MCCUMBER,
Clerk.