

West Virginia for their leadership in this effort. I thank the Senate for actually passing a bill even if they needlessly changed it. Now we can hopefully get something to the President's desk. I urge passage of this bill and look forward to seeing President Trump sign it into law.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. WESTERMAN) that the House suspend the rules and pass the bill, S. 858.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 46 minutes p.m.), the House stood in recess.

□ 1615

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WIED) at 4 o'clock and 15 minutes p.m.

NDO FAIRNESS ACT OF 2025

Mr. FITZGERALD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6048) to amend title 18, United States Code, to modify delayed notice requirements, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H. R. 6048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "NDO Fairness Act of 2025".

SEC. 2. PRECLUSION OF NOTICE.

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

“(b) PRECLUSION OF NOTICE.—

“(1) APPLICATION.—

“(A) IN GENERAL.—A governmental entity that is seeking a warrant, order, or subpoena under section 2703, when it is not required to notify the customer or subscriber, or to the extent that it may delay such notice pursuant to subsection (a), may apply to a court for an order, subject to paragraph (6), directing a provider of electronic communications service or remote computing service to which a warrant, order, or subpoena under section 2703 is directed not to notify any other person of the existence of the warrant, order, or subpoena.

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

“(i) for a period of not more than 1 year if the nature of the offense for which the gov-

ernmental entity is seeking a warrant, order, or subpoena pertains to child pornography, as defined in section 2256, sexual exploitation of children under section 2251, or any Federal, State, Tribal, or military offense that is the substantial equivalent; or

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

“(C) OTHER REQUIREMENTS.—

“(i) IN GENERAL.—An application for an order under subparagraph (A) shall state, to the best of the applicant's knowledge, whether the named customer or subscriber whose information is sought by the warrant, order, or subpoena under section 2703—

“(I) is aware of the warrant, order, subpoena, or underlying investigation; and

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

“(ii) ORDERS.—An order granted under this paragraph may not direct, or otherwise require, a provider of electronic communications service or remote computing service to provide notification of the expiration of order to the court or government entity that sought the order.

“(2) DETERMINATION.—

“(A) IN GENERAL.—The court may not grant a request for an order made under paragraph (1), or an extension of such order requested by the governmental entity pursuant to paragraph (3), unless—

“(i) the court issues a written determination, based on specific and articulable facts, and including written findings of fact and conclusions of law, that it is likely that not granting the request will result in—

“(I) endangering the life or physical safety of an individual;

“(II) flight from prosecution;

“(III) destruction of or tampering with evidence;

“(IV) intimidation of potential witnesses; or

“(V) otherwise seriously jeopardizing an investigation or unduly delaying a trial; and

“(ii) the order is narrowly tailored and there is no less restrictive alternative, including notification to an individual or organization within or providing legal representation to the named customer or subscriber, that is not likely to result in an adverse result as described in subclauses (I) through (V) of subparagraph (A)(i); and

“(iii) the court has reviewed the individual warrant, order, or subpoena under section 2703 to which the order issued under this paragraph applies.

“(B) NATURE OF THE OFFENSE.—

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

“(ii) PRESUMPTION.—If the court determines there is a reasonable belief the nature of the offense pertains to child pornography, as defined in section 2256, or sexual exploitation of children, as described in section 2251, or any Federal, including military, State, or tribal offense that is the substantial equivalent, the court may presume that one or more of the adverse results described in subclauses (I) through (V) of subparagraph (A)(i) are met and may issue an order consistent with this subsection without a written decision under subparagraph (A)(i).

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

“(4) NOTIFICATION OF CHANGED CIRCUMSTANCES.—If the need for the order issued under paragraph (1) changes materially, the governmental entity that requested the

order shall notify the court within a reasonable period of time (not to exceed 14 days) of the changed circumstances, and the court shall reassess the order and modify or vacate as appropriate.

“(5) OPPORTUNITY TO BE HEARD.—

“(A) IN GENERAL.—Upon an application, petition, or motion by a provider of electronic communications service or remote computing service or person acting on behalf of the provider to which an order under paragraph (1) (or an extension under paragraph (3)) has been issued, the court may modify or vacate the order if—

“(i) the order does not meet requirements provided in paragraph (2) or (3); or

“(ii) compliance with the order is unreasonable or otherwise unlawful.

“(B) STAY OF DISCLOSURE OF NAMED CUSTOMER OR SUBSCRIBER COMMUNICATIONS OR RECORDS.—A provider's obligation to disclose the information requested in the warrant, order, or subpoena to which the order in paragraph (1) applies is stayed for a period of 72 hours upon the filing of the application, petition, or motion under this paragraph, unless the court with jurisdiction over the challenge determines, based on a showing by the provider or the governmental entity, that the stay should be extended or lifted in whole or in part prior to resolution of the application, petition, or motion.

“(C) FINALITY OF ORDER.—The decision of the court resolving an application, petition, or motion under this paragraph shall constitute a final, appealable order.

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

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

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

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

“(7) SCOPE OF NONDISCLOSURE.—Any person to whom disclosure is made under paragraph (6) (other than the governmental entity) shall be subject to the nondisclosure requirements applicable to the person to whom the order is issued. Any recipient authorized under this subsection to disclose to a person information otherwise subject to a nondisclosure requirement shall notify the person of the applicable nondisclosure requirement.

“(8) SUPPORTING DOCUMENTATION.—Upon serving a provider of electronic communications service or remote computing service with an order granted under paragraph (1), or an extension of such order granted under paragraph (3), the governmental entity shall include a copy of the warrant, order, or subpoena to which the nondisclosure order applies.

“(9) EXPIRATION OF ORDER PRECLUDING NOTICE.—Upon expiration of an order issued under paragraph (1) or, if an extension has been granted under paragraph (3), expiration of the extension, the governmental entity shall deliver to the named customer or subscriber, by at least 2 methods, which shall be personal service, registered or first-class mail, electronic mail, or other means approved by the court as reasonably calculated to reach the named customer or subscriber within 5 business days of the expiration of the order—

“(A) a copy of the warrant, order, or subpoena; and

“(B) notice that informs the named customer or subscriber—

“(i) of the nature of the law enforcement inquiry with reasonable specificity;

“(ii) that information maintained for such customer or subscriber by the provider of electronic communications service or remote computing service to which the warrant, order, or subpoena under section 2703, was directed was supplied to or requested by the government entity;

“(iii) that notification of such customer or subscriber was precluded by court order;

“(iv) of the identity of the court authorizing the preclusion of notice;

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

“(vi) that the government will, upon request by the customer or subscriber made within 180 days after receiving notification under this paragraph, provide the named customer or subscriber with a copy of the information that was disclosed in response to the warrant, order or subpoena, or in the event that no information was disclosed, a written certification that no information was disclosed.

“(10) COPY OF INFORMATION DISCLOSED.—Upon expiration of the order precluding notice issued under paragraph (1) or (3) of this subsection, and at the request of the named customer or subscriber made within 180 days of receiving notification under paragraph (9), the governmental entity shall promptly provide the named customer or subscriber—

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

“(i) illicit records;

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

“(iii) other illegal material; or

“(B) in the event that no information was disclosed, a written certification that no information was disclosed.

“(11) REDACTIONS.—Any information disclosed pursuant to paragraphs (9) and (10) may be redacted only if a court finds such redactions necessary to preserve the secrecy or integrity of an investigation.”.

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

“(c) ANNUAL REPORT.—

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

“(A) the number of named customers or subscribers with respect to whom, in that calendar year, a warrant, subpoena, or court order was issued pursuant to section 2703;

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

“(C) the aggregate number of orders under this section either granting, extending, or denying a request for delay of notification or preclusion of notice;

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

“(E) the aggregate number of arrests, trials, and convictions, resulting from investigations in which orders under this section were obtained, including the offenses for which individuals were arrested, tried, or convicted.

“(2) PROCESS.—The Attorney General shall include in the report under this subsection a description of the process and the information used to determine the numbers for each of subparagraphs (A) through (E) or paragraph (1).”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. FITZGERALD) and the gentleman from Maryland (Mr. RASKIN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

GENERAL LEAVE

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 6048.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. FITZGERALD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of my legislation H.R. 6048, the NDO Fairness Act of 2025, and urge its passage.

This bill makes much-needed changes to the way law enforcement obtains and utilizes nondisclosure orders, also known as secrecy orders.

Before modern advancements in cloud computing, when a law enforcement officer wanted to search someone's office, they would be required to obtain a search warrant based on probable cause.

When the officer executed the search, they would notify the individual, who would then have an opportunity to challenge the search in court. However, the era of cloud computing has ushered in a new method of storing sensitive information, whereby individuals are replacing file cabinets with digital file folders.

Unbeknownst to them, by surrendering the physical office in favor of the digital one, individuals are also surrendering their expectation of privacy. That is because a provision within the Electronic Communications Privacy Act allows law enforcement to access an individual's data by subpoenaing the third-party service provider, such as Microsoft, Google, or Apple, rather than the individual.

The law enforcement officer then imposes a secrecy order on the company, preventing them from notifying the individual of the search. The secrecy order is often boilerplate and without a time limit, leading to abuse or overuse.

According to Microsoft, between July and December 2024, Federal authorities

requested U.S. citizen data from more than 5,500 accounts, an average of 15 requests per day.

Over the same period, Google received more than 24,000 subpoenas for nearly 54,000 accounts. In nearly all these cases, a secrecy order was imposed on the company to prevent the disclosure of the search.

Look no further than the recent revelations by the House Judiciary Committee that Special Counsel Jack Smith sought and obtained nondisclosure orders to prevent phone carriers from notifying Members of Congress that their phone records were searched.

For nearly 2 years, Members of Congress were unable to be notified that their information was searched, all because a Federal judge accepted the government's boilerplate secrecy order, suggesting disclosure would seriously jeopardize an ongoing investigation.

Regardless of your politics, this should alarm every sitting Member of Congress. The NDO Fairness Act of 2025 would stop this abuse, which has allowed the circumvention of the Fourth Amendment protections in favor of convenience.

This legislation ends indefinite secrecy orders. Instead, it requires the court to certify that disclosing the search is likely to jeopardize an investigation, result in the destruction of evidence, or endanger the life of an individual.

□ 1620

This legislation also imposes a 90-day limit on secrecy orders, with an extension available if, and only if, the need for secrecy is justified based on arguable facts and approval by a judge.

Finally, this legislation gives the individual subject to the search a chance to be heard and a chance to request a copy of the information that was disclosed.

Today's legislation, while not a major overhaul of the ECPA, provides us with an opportunity to address the threat to our constitutional freedoms, not just for elected officials, but for all Americans.

These changes, I believe, will bring searches of the cloud more closely in line with the Fourth Amendment searches.

Mr. Speaker, I thank my colleague from New York (Mr. NADLER) for co-leading this bill. I also thank the chairman of the committee, Chairman JORDAN, for his leadership on the issue.

Mr. Speaker, I urge swift passage of this bill, and I reserve the balance of my time.

Mr. RASKIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, welcome back to you and to Mr. FITZGERALD. I am pleased we are working together to address a real flaw in government surveillance authorities and to safeguard Americans' privacy and civil liberties by moving the NDO Fairness Act today.

Under the Stored Communications Act, prosecutors can go to a judge to

get a search warrant for the content of private communications and documents that Americans send over the internet and store in the cloud.

Third-party providers store our emails, our private chat messages, our work documents, and our phone records on their servers. Most of these can be searched if the government gets a warrant based on probable cause that the search will reveal evidence of criminal activity, but unlike the searches most Americans are familiar with from TV dramas where an officer shows up at a suspect's house with a warrant, the Stored Communications Act allows Federal investigators to request a nondisclosure order, also known as an NDO, from a Federal judge, preventing your service provider from ever telling you that your email account or phone records had been seized.

There is no statutory time limit. NDOs can exist in perpetuity, allowing the government to forever hide their searches from the searched.

There are good reasons why prosecutors might need or want a nondisclosure order, an NDO, for a brief period of time. In some cases, immediate notice might put an undercover agent in direct danger or risk the destruction of key evidence or compromise an ongoing investigation, but 40 years after passage of the Stored Communications Act, the government's use of nondisclosure orders has expanded well beyond these high exigency cases.

Under current law, the request has become little more than a simple box-checking exercise. The statute allows the government to maintain these nondisclosure orders indefinitely. DOJ's current policy limits the duration of the NDOs to 3 years, and that policy is itself totally voluntary and flexible. DOJ can rescind, suspend, or even just ignore it at will.

We need laws, not voluntary, dismissible DOJ policies, to protect our privacy under the Constitution. By limiting nondisclosure orders to 90 days with the possibility of renewal if there is an actual emergency still ongoing, the NDO Fairness Act ends the so-called forever NDOs where nondisclosure orders have no end date and no end in sight.

By requiring prosecutors to explain the rationale for their requests, we end the so-called rubberstamp NDOs in which applications for an NDO are submitted with boilerplate language and no evidence demonstrating any true or compelling need for nondisclosure.

By ensuring that judges apply the proper strict scrutiny standard to the requests, we limit nondisclosure orders to those where secrecy is actually necessary to the pursuit of the investigation.

In this way, the NDO Fairness Act will protect all Americans who keep an increasingly large percentage of their information online and should expect notice if the government is rifling through their records.

Most recently, we have heard about NDOs in the case of Special Counsel Jack Smith's investigation into President Trump's effort to interfere with the results of the 2020 election, an effort that culminated in an attack on this building, the U.S. Capitol, on January 6, 2021.

It has been well-known for years that in the days leading up to the attack and while the mob was still rampaging in the Capitol, President Trump and his enablers, like Rudy Giuliani, made a series of phone calls to Members of Congress trying to convince them not to certify the election, even as the insurrectionists were tearing through the building.

As part of his investigation into that attack, Special Counsel Smith asked a Federal grand jury to subpoena the phone companies for the records associated with individual Members of Congress known to have been in contact with the White House over a 4-day period running from around January 6, 2021. The subpoena sought call records, the kind of information that is on your phone bill, not the content of any calls or text messages, but a record of who called who when. He also asked a Federal judge to issue an NDO for those subpoenas. He did so after receiving permission to do so from the Public Integrity Section and in full compliance with both existing law and DOJ policy.

It is no secret that the President had made it a habit to pressure witnesses not to testify against him. In August 2023, while he was being prosecuted for these efforts to overturn the 2020 elections, he posted the message: "If you go after me, I am coming after you."

Senators were upset by these completely lawful subpoenas and well-justified nondisclosure orders under the law as it was understood. Their response was to pass a law giving them, and them alone, the right to collect \$1 million apiece each time the government sought their communications records, in the past and in the future.

Instead of acting to protect all Americans, all of us, they sought a multi-million-dollar payday for themselves as U.S. Senators. They did not even include mere lowly Members of the U.S. House of Representatives in their legislation.

Fortunately, that selective, self-serving authority was short-lived, and we succeeded in overturning, I think unanimously in this body, that stunningly corrupt law. The proposal before us today addresses the problem at its root for all Americans and protects all of us, not just the 100 Americans who we get to serve with in the Chamber down the hall.

Prosecutors under Presidents of both parties have routinely sought NDOs in all kinds of probes. The number of orders accompanied by NDOs that electronic communication companies receive has only increased since this legislation was first introduced over 4 years ago.

This body has proudly already passed this bill twice. I am hopeful that our

colleagues in the Senate may now realize and act on the fundamental importance of this legislation for everyone in America.

Our laws should protect the civil liberties of all 340 million Americans just as the Equal Protection Clause demands.

Mr. Speaker, I thank Mr. NADLER for leading the NDO Fairness Act since this legislation was first developed, and I thank Mr. FITZGERALD for ably leading the charge in this Congress. I look forward to voting "yes" on this important legislation.

Mr. Speaker, for the aforementioned reasons, I enthusiastically endorse this legislation and encourage all of my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Mr. FITZGERALD. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I reiterate my strong support for this bipartisan bill, H.R. 6048, which will provide much-needed safeguards on the secrecy order process. This bill passed the House nearly unanimously last Congress, and it is my hope it does so again today.

Mr. Speaker, I urge all my colleagues to again vote "aye" on this, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. FITZGERALD) that the House suspend the rules and pass the bill, H.R. 6048, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1630

PRISON STAFF SAFETY ENHANCEMENT ACT

Ms. LEE of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (S. 307) to address sexual harassment and sexual assault of Bureau of Prisons staff in prisons, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prison Staff Safety Enhancement Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) In 2023, the Office of the Inspector General of the Department of Justice released a report titled "Evaluation of the Federal Bureau of Prisons' Efforts to Address Sexual Harassment and Sexual Assault Committed by Inmates Toward Staff" (in this section referred to as the "Inspector General report").

(2) The Inspector General report examined all sanctioned inmate sexual incidents in the Bureau of Prisons (in this section referred to as the "Bureau") between fiscal years 2015 and 2021, and found that inmate-on-staff sexual harassment and sexual assault is widespread.