

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

H. R. 2048

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.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

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”.

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

1. Short title; table of contents.

2

2. Amendments to the Foreign Intelligence Surveillance Act of 1978.

TITLE I—FISA BUSINESS RECORDS REFORMS

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

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

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

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

301. Limits on use of unlawfully obtained information.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT REFORMS

401. Appointment of amicus curiae.

TITLE V—NATIONAL SECURITY LETTER REFORM

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

TITLE VI—FISA TRANSPARENCY AND REPORTING REQUIREMENTS

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

TITLE VII—ENHANCED NATIONAL SECURITY PROVISIONS

701. Emergencies involving non-United States persons.
702. Preservation of treatment of non-United States persons traveling outside the United States as agents of foreign powers.
703. Improvement to investigations of international proliferation of weapons of mass destruction.

704. Increase in penalties for material support of foreign terrorist organizations.
705. Sunsets.

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

Subtitle A—Safety of Maritime Navigation

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

Subtitle B—Prevention of Nuclear Terrorism

811. New section 2332i of title 18, United States Code.
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)—

16 (A) in the matter preceding clause (i), by
17 striking “a statement” and inserting “in the

1 case of an application other than an application
2 described in subparagraph (C) (including an ap-
3 plication for the production of call detail
4 records other than in the manner described in
5 subparagraph (C)), a statement”; and

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

8 (2) by redesignating subparagraphs (A) and
9 (B) as subparagraphs (B) and (D), respectively; and

10 (3) by inserting after subparagraph (B) (as so
11 redesignated) the following new subparagraph:

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

20 “(i) there are reasonable grounds to
21 believe that the call detail records sought
22 to be produced based on the specific selec-
23 tion term required under subparagraph (A)
24 are relevant to such investigation; and

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

9 (b) ORDER.—Section 501(c)(2) (50 U.S.C.
10 1861(c)(2)) is amended—

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

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

15 (3) by adding at the end the following new sub-
16 paragraph:

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

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

22 “(ii) provide that an order for such
23 production may be extended upon applica-
24 tion under subsection (b) and the judicial

1 finding under paragraph (1) of this sub-
2 section;

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

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

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

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

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

5 “(vii) direct the Government to—

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

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

15 **SEC. 102. EMERGENCY AUTHORITY.**

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

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

21 “(1) Notwithstanding any other provision of
22 this section, the Attorney General may require the
23 emergency production of tangible things if the Attor-
24 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. NOTICE TO THE ATTORNEY GENERAL ON**
2 **CHANGES IN RETENTION OF CALL DETAIL**
3 **RECORDS.**

4 Section 501 (50 U.S.C. 1861), as amended by section
5 106 of this Act, is amended by adding at the end the fol-
6 lowing new subsection:

7 “(k) PROSPECTIVE CHANGES TO EXISTING PRAC-
8 TICES RELATED TO CALL DETAIL RECORDS.—

9 “(1) IN GENERAL.—Consistent with subsection
10 (e)(2)(F), an electronic communication service pro-
11 vider that has been issued an order to produce call
12 detail records pursuant to an order under subsection
13 (e) shall notify the Attorney General if that service
14 provider intends to retain its call detail records for
15 a period less than 18 months.

16 “(2) TIMING OF NOTICE.—A notification under
17 paragraph (1) shall be made not less than 180 days
18 prior to the date such electronic communications
19 service provider intends to implement a policy to re-
20 tain such records for a period less than 18
21 months.”.

22 **SEC. 108. DEFINITIONS.**

23 Section 501 (50 U.S.C. 1861), as amended by section
24 107 of this Act, is further amended by adding at the end
25 the following new subsection:

26 “(l) DEFINITIONS.—In this section:

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

7 “(2) ADDRESS.—The term ‘address’ means a
8 physical address or electronic address, such as an
9 electronic mail address or temporarily assigned net-
10 work address (including an Internet protocol ad-
11 dress).

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

14 “(A) means session-identifying information
15 (including an originating or terminating tele-
16 phone number, an International Mobile Sub-
17 scriber Identity number, or an International
18 Mobile Station Equipment Identity number), a
19 telephone calling card number, or the time or
20 duration of a call; and

21 “(B) does not include—

22 “(i) the contents (as defined in section
23 2510(8) of title 18, United States Code) of
24 any communication;

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

3 “(iii) cell site location or global posi-
4 tioning system information.

5 “(4) SPECIFIC SELECTION TERM.—

6 “(A) TANGIBLE THINGS.—

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

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

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

19 “(ii) LIMITATION.—A specific selec-
20 tion term under clause (i) does not include
21 an identifier that does not limit, to the
22 greatest extent reasonably practicable, the
23 scope of tangible things sought consistent
24 with the purpose for seeking the tangible
25 things, such as an identifier that—

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

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

20 “(iii) RULE OF CONSTRUCTION.—
21 Nothing in this paragraph shall be con-
22 strued to preclude the use of multiple
23 terms or identifiers to meet the require-
24 ments of clause (i).

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

7 **SEC. 109. INSPECTOR GENERAL REPORTS ON BUSINESS**
8 **RECORDS ORDERS.**

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

12 (1) in subsection (b)—

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

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

17 (C) by redesignating paragraphs (4) and
18 (5) as paragraphs (2) and (3), respectively; and

19 (D) in paragraph (3) (as so redesign-
20 ated)—

21 (i) by striking subparagraph (C) and
22 inserting the following new subparagraph:

23 “(C) with respect to calendar years 2012
24 through 2014, an examination of the minimiza-
25 tion procedures used in relation to orders under

1 section 501 of the Foreign Intelligence Surveil-
2 lance Act of 1978 (50 U.S.C. 1861) and wheth-
3 er the minimization procedures adequately pro-
4 tect the constitutional rights of United States
5 persons;” and

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

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

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

23 (3) by redesignating subsections (d) and (e) as
24 subsections (e) and (f), respectively;

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

3 “(d) INTELLIGENCE ASSESSMENT.—

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

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

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

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

21 “(D) any minimization procedures pro-
22 posed by an element of the intelligence commu-
23 nity under such title that were modified or de-
24 nied by the court established under section
25 103(a) of such Act (50 U.S.C. 1803(a)).

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

13 (5) in subsection (e), as redesignated by para-
14 graph (3)—

15 (A) in paragraph (1)—

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

19 (ii) by striking “Inspector General of
20 the Department of Justice” and inserting
21 “Inspector General of the Department of
22 Justice, the Inspector General of the Intel-
23 ligence Community, and any Inspector
24 General of an element of the intelligence
25 community that prepares a report to assist

1 the Inspector General of the Department
2 of Justice or the Inspector General of the
3 Intelligence Community in complying with
4 the requirements of this section”; and

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

9 (6) in subsection (f), as redesignated by para-
10 graph (3)—

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

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

17 (7) by adding at the end the following new sub-
18 section:

19 “(g) DEFINITIONS.—In this section:

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

24 “(2) UNITED STATES PERSON.—The term
25 ‘United States person’ has the meaning given that

1 term in section 101 of the Foreign Intelligence Sur-
2 veillance Act of 1978 (50 U.S.C. 1801).”.

3 **SEC. 110. EFFECTIVE DATE.**

4 (a) IN GENERAL.—The amendments made by sec-
5 tions 101 through 103 shall take effect on the date that
6 is 1 year after the date of the enactment of this Act.

7 (b) REVIEW AND CERTIFICATION.—The Director of
8 National Intelligence shall—

9 (1) review the implementation of the transition
10 from the existing procedures for the production of
11 call detail records under title V of the Foreign Intel-
12 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et
13 seq.), as in effect prior to the effective date for the
14 amendments made by sections 101 through 103 of
15 this Act, to the new procedures pursuant to the
16 amendments made by sections 101 through 103 of
17 this Act; and

18 (2) not later than 30 days before the effective
19 date specified in subsection (a), certify to Congress
20 in writing that—

21 (A) the implementation of the transition
22 described in paragraph (1) is operationally ef-
23 fective to allow the timely retrieval of foreign
24 intelligence information from recipients of an
25 order issued under section 501(c)(2)(F) of the

1 Foreign Intelligence Surveillance Act of 1978,
2 as amended by section 101 of this Act; and

3 (B) the implementation of the amendments
4 made by section 101 through 103 of this Act—

5 (i) will not harm the national security
6 of the United States; and

7 (ii) will ensure the protection of classi-
8 fied information and classified intelligence
9 sources and methods related to such pro-
10 duction of call detail records.

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

18 **SEC. 111. RULE OF CONSTRUCTION.**

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

1 Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et
2 seq.).

3 **TITLE II—FISA PEN REGISTER**
4 **AND TRAP AND TRACE DE-**
5 **VICE REFORM**

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

7 (a) PROHIBITION.—Section 402(c) (50 U.S.C.
8 1842(c)) is amended—

9 (1) in paragraph (1), by striking “; and” and
10 inserting a semicolon;

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

13 (3) by adding at the end the following new
14 paragraph:

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

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

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

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

1 “(ii) is used to limit, to the greatest extent
2 reasonably practicable, the scope of information
3 sought, consistent with the purpose for seeking
4 the use of the pen register or trap and trace de-
5 vice.

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

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

23 “(ii) identifies a broad geographic region,
24 including the United States, a city, a county, a
25 State, a zip code, or an area code, when not

1 used as part of a specific identifier as described
2 in subparagraph (A).

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

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

12 **SEC. 202. PRIVACY PROCEDURES.**

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

16 “(h) PRIVACY PROCEDURES.—

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

1 apply to the collection, retention, and use of infor-
2 mation concerning United States persons.

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

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

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

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

20 **SEC. 301. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-**
21 **FORMATION.**

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

24 “(D) LIMITATION ON USE OF INFORMA-
25 TION.—

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

1 “(ii) EXCEPTION.—If the Government
2 corrects any deficiency identified by the
3 order of the Court under subparagraph
4 (B), the Court may permit the use or dis-
5 closure of information obtained before the
6 date of the correction under such mini-
7 mization procedures as the Court may ap-
8 prove for purposes of this clause.”.

9 **TITLE IV—FOREIGN INTEL-**
10 **LIGENCE SURVEILLANCE**
11 **COURT REFORMS**

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

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

15 “(i) AMICUS CURIAE.—

16 “(1) AUTHORIZATION.—A court established
17 under subsection (a) or (b) is authorized, consistent
18 with the requirement of subsection (c) and any other
19 statutory requirement that the court act expedi-
20 tiously or within a stated time—

21 “(A) to appoint amicus curiae to—

22 “(i) assist the court in the consider-
23 ation of any application for an order or re-
24 view that, in the opinion of the court, pre-

1 sents a novel or significant interpretation
2 of the law; or

3 “(ii) provide technical expertise in any
4 instance the court considers appropriate;
5 or

6 “(B) upon motion, to permit an individual
7 or organization leave to file an amicus curiae
8 brief.

9 “(2) DESIGNATION.—The courts established by
10 subsection (a) and (b) shall each designate 1 or
11 more individuals who may be appointed to serve as
12 amicus curiae and who are determined to be eligible
13 for access to classified national security information
14 necessary to participate in matters before such
15 courts (if such access is necessary for participation
16 in the matters for which they may be appointed). In
17 appointing an amicus curiae pursuant to paragraph
18 (1), the court may choose from among those so des-
19 ignated.

20 “(3) EXPERTISE.—An individual appointed as
21 an amicus curiae under paragraph (1) may be an in-
22 dividual who possesses expertise on privacy and civil
23 liberties, intelligence collection, communications
24 technology, or any other area that may lend legal or
25 technical expertise to the court.

1 “(4) DUTIES.—An amicus curiae appointed
2 under paragraph (1) to assist with the consideration
3 of a covered matter shall carry out the duties as-
4 signed by the appointing court. That court may au-
5 thorize the amicus curiae to review any application,
6 certification, petition, motion, or other submission
7 that the court determines is relevant to the duties
8 assigned by the court.

9 “(5) NOTIFICATION.—A court established under
10 subsection (a) or (b) shall notify the Attorney Gen-
11 eral of each exercise of the authority to appoint an
12 amicus curiae under paragraph (1).

13 “(6) ASSISTANCE.—A court established under
14 subsection (a) or (b) may request and receive (in-
15 cluding on a non-reimbursable basis) the assistance
16 of the executive branch in the implementation of this
17 subsection.

18 “(7) ADMINISTRATION.—A court established
19 under subsection (a) or (b) may provide for the des-
20 ignation, appointment, removal, training, or other
21 support of an amicus curiae appointed under para-
22 graph (1) in a manner that is not inconsistent with
23 this subsection.

24 “(j) REVIEW OF FISA COURT DECISIONS.—Fol-
25 lowing issuance of an order under this Act, a court estab-

1 lished under subsection (a) shall certify for review to the
2 court established under subsection (b) any question of law
3 that may affect resolution of the matter in controversy
4 that the court determines warrants such review because
5 of a need for uniformity or because consideration by the
6 court established under subsection (b) would serve the in-
7 terests of justice. Upon certification of a question of law
8 under this subsection, the court established under sub-
9 section (b) may give binding instructions or require the
10 entire record to be sent up for decision of the entire matter
11 in controversy.

12 “(k) REVIEW OF FISA COURT OF REVIEW DECI-
13 SIONS.—

14 “(1) CERTIFICATION.—For purposes of section
15 1254(2) of title 28, United States Code, the court
16 of review established under subsection (b) shall be
17 considered to be a court of appeals.

18 “(2) AMICUS CURIAE BRIEFING.—Upon certifi-
19 cation of an application under paragraph (1), the
20 Supreme Court of the United States may appoint an
21 amicus curiae designated under subsection (i)(3), or
22 any other person, to provide briefing or other assist-
23 ance.”.

1 **TITLE V—NATIONAL SECURITY**
2 **LETTER REFORM**

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

4 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
5 TOLL AND TRANSACTIONAL RECORDS.—Section 2709(b)
6 of title 18, United States Code, is amended in the matter
7 preceding paragraph (1) by striking “may” and inserting
8 “may, using a term that specifically identifies a person,
9 entity, telephone number, or account as the basis for a
10 request”.

11 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
12 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
13 1114(a)(2) of the Right to Financial Privacy Act of 1978
14 (12 U.S.C. 3414(a)(2)) is amended by striking the period
15 and inserting “and a term that specifically identifies a cus-
16 tomer, entity, or account to be used as the basis for the
17 production and disclosure of financial records.”.

18 (c) DISCLOSURES TO FBI OF CERTAIN CONSUMER
19 RECORDS FOR COUNTERINTELLIGENCE PURPOSES.—Sec-
20 tion 626 of the Fair Credit Reporting Act (15 U.S.C.
21 1681u) is amended—

22 (1) in subsection (a), by striking “that informa-
23 tion,” and inserting “that information that includes
24 a term that specifically identifies a consumer or ac-

1 count to be used as the basis for the production of
2 that information,”;

3 (2) in subsection (b), by striking “written re-
4 quest,” and inserting “written request that includes
5 a term that specifically identifies a consumer or ac-
6 count to be used as the basis for the production of
7 that information,”; and

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

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

19 **SEC. 502. LIMITATIONS ON DISCLOSURE OF NATIONAL SE-**
20 **CURITY LETTERS.**

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

25 “(c) **PROHIBITION OF CERTAIN DISCLOSURE.**—

1 “(1) PROHIBITION.—

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

12 “(B) CERTIFICATION.—The requirements
13 of subparagraph (A) shall apply if the Director
14 of the Federal Bureau of Investigation, or a
15 designee of the Director whose rank shall be no
16 lower than Deputy Assistant Director at Bu-
17 reau headquarters or a Special Agent in Charge
18 of a Bureau field office, certifies that the ab-
19 sence of a prohibition of disclosure under this
20 subsection may result in—

21 “(i) a danger to the national security
22 of the United States;

23 “(ii) interference with a criminal,
24 counterterrorism, or counterintelligence in-
25 vestigation;

1 “(iii) interference with diplomatic re-
2 lations; or

3 “(iv) danger to the life or physical
4 safety of any person.

5 “(2) EXCEPTION.—

6 “(A) IN GENERAL.—A wire or electronic
7 communication service provider that receives a
8 request under subsection (b), or officer, em-
9 ployee, or agent thereof, may disclose informa-
10 tion otherwise subject to any applicable non-
11 disclosure requirement to—

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

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

18 “(iii) other persons as permitted by
19 the Director of the Federal Bureau of In-
20 vestigation or the designee of the Director.

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

1 ner as the person to whom the request is
2 issued.

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

8 “(D) IDENTIFICATION OF DISCLOSURE RE-
9 CIPIENTS.—At the request of the Director of
10 the Federal Bureau of Investigation or the des-
11 ignee of the Director, any person making or in-
12 tending to make a disclosure under clause (i) or
13 (iii) of subparagraph (A) shall identify to the
14 Director or such designee the person to whom
15 such disclosure will be made or to whom such
16 disclosure was made prior to the request.”.

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

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

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

25 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

1 “(1) PROHIBITION.—

2 “(A) IN GENERAL.—If a certification is
3 issued under subparagraph (B) and notice of
4 the right to judicial review under subsection (d)
5 is provided, no financial institution that receives
6 a request under subsection (a), or officer, em-
7 ployee, or agent thereof, shall disclose to any
8 person that the Federal Bureau of Investigation
9 has sought or obtained access to information or
10 records under subsection (a).

11 “(B) CERTIFICATION.—The requirements
12 of subparagraph (A) shall apply if the Director
13 of the Federal Bureau of Investigation, or a
14 designee of the Director whose rank shall be no
15 lower than Deputy Assistant Director at Bu-
16 reau headquarters or a Special Agent in Charge
17 of a Bureau field office, certifies that the ab-
18 sence of a prohibition of disclosure under this
19 subsection may result in—

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

22 “(ii) interference with a criminal,
23 counterterrorism, or counterintelligence in-
24 vestigation;

1 “(iii) interference with diplomatic re-
2 lations; or

3 “(iv) danger to the life or physical
4 safety of any person.

5 “(2) EXCEPTION.—

6 “(A) IN GENERAL.—A financial institution
7 that receives a request under subsection (a), or
8 officer, employee, or agent thereof, may disclose
9 information otherwise subject to any applicable
10 nondisclosure requirement to—

11 “(i) those persons to whom disclosure
12 is necessary in order to comply with the re-
13 quest;

14 “(ii) an attorney in order to obtain
15 legal advice or assistance regarding the re-
16 quest; or

17 “(iii) other persons as permitted by
18 the Director of the Federal Bureau of In-
19 vestigation or the designee of the Director.

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

1 ner as the person to whom the request is
2 issued.

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

8 “(D) IDENTIFICATION OF DISCLOSURE RE-
9 CIPIENTS.—At the request of the Director of
10 the Federal Bureau of Investigation or the des-
11 ignee of the Director, any person making or in-
12 tending to make a disclosure under clause (i) or
13 (iii) of subparagraph (A) shall identify to the
14 Director or such designee the person to whom
15 such disclosure will be made or to whom such
16 disclosure was made prior to the request.”.

17 (e) IDENTITY OF FINANCIAL INSTITUTIONS AND
18 CREDIT REPORTS.—Section 626 of the Fair Credit Re-
19 porting Act (15 U.S.C. 1681u) is amended by striking
20 subsection (d) and inserting the following new subsection:

21 “(d) PROHIBITION OF CERTAIN DISCLOSURE.—

22 “(1) PROHIBITION.—

23 “(A) IN GENERAL.—If a certification is
24 issued under subparagraph (B) and notice of
25 the right to judicial review under subsection (e)

1 is provided, no consumer reporting agency that
2 receives a request under subsection (a) or (b) or
3 an order under subsection (c), or officer, em-
4 ployee, or agent thereof, shall disclose or specify
5 in any consumer report, that the Federal Bu-
6 reau of Investigation has sought or obtained ac-
7 cess to information or records under subsection
8 (a), (b), or (c).

9 “(B) CERTIFICATION.—The requirements
10 of subparagraph (A) shall apply if the Director
11 of the Federal Bureau of Investigation, or a
12 designee of the Director whose rank shall be no
13 lower than Deputy Assistant Director at Bu-
14 reau headquarters or a Special Agent in Charge
15 of a Bureau field office, certifies that the ab-
16 sence of a prohibition of disclosure under this
17 subsection may result in—

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

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

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

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

3 “(2) EXCEPTION.—

4 “(A) IN GENERAL.—A consumer reporting
5 agency that receives a request under subsection
6 (a) or (b) or an order under subsection (c), or
7 officer, employee, or agent thereof, may disclose
8 information otherwise subject to any applicable
9 nondisclosure requirement to—

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

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

16 “(iii) other persons as permitted by
17 the Director of the Federal Bureau of In-
18 vestigation or the designee of the Director.

19 “(B) APPLICATION.—A person to whom
20 disclosure is made under subparagraph (A)
21 shall be subject to the nondisclosure require-
22 ments applicable to a person to whom a request
23 under subsection (a) or (b) or an order under
24 subsection (c) is issued in the same manner as
25 the person to whom the request is 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 Director of
8 the Federal Bureau of Investigation or the des-
9 ignee of the Director, any person making or in-
10 tending to make a disclosure under clause (i) or
11 (iii) of subparagraph (A) shall identify to the
12 Director or such designee the person to whom
13 such disclosure will be made or to whom such
14 disclosure was made prior to the request.”.

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

19 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

20 “(1) PROHIBITION.—

21 “(A) IN GENERAL.—If a certification is
22 issued under subparagraph (B) and notice of
23 the right to judicial review under subsection (d)
24 is provided, no consumer reporting agency that
25 receives a request under subsection (a), or offi-

1 cer, employee, or agent thereof, shall disclose or
2 specify in any consumer report, that a govern-
3 ment agency described in subsection (a) has
4 sought or obtained access to information or
5 records under subsection (a).

6 “(B) CERTIFICATION.—The requirements
7 of subparagraph (A) shall apply if the head of
8 the government agency described in subsection
9 (a), or a designee, certifies that the absence of
10 a prohibition of disclosure under this subsection
11 may result in—

12 “(i) a danger to the national security
13 of the United States;

14 “(ii) interference with a criminal,
15 counterterrorism, or counterintelligence in-
16 vestigation;

17 “(iii) interference with diplomatic re-
18 lations; or

19 “(iv) danger to the life or physical
20 safety of any person.

21 “(2) EXCEPTION.—

22 “(A) IN GENERAL.—A consumer reporting
23 agency that receives a request under subsection
24 (a), or officer, employee, or agent thereof, may

1 disclose information otherwise subject to any
2 applicable nondisclosure requirement to—

3 “(i) those persons to whom disclosure
4 is necessary in order to comply with the re-
5 quest;

6 “(ii) an attorney in order to obtain
7 legal advice or assistance regarding the re-
8 quest; or

9 “(iii) other persons as permitted by
10 the head of the government agency de-
11 scribed in subsection (a) or a designee.

12 “(B) APPLICATION.—A person to whom
13 disclosure is made under subparagraph (A)
14 shall be subject to the nondisclosure require-
15 ments applicable to a person to whom a request
16 under subsection (a) is issued in the same man-
17 ner as the person to whom the request is
18 issued.

19 “(C) NOTICE.—Any recipient that dis-
20 closes to a person described in subparagraph
21 (A) information otherwise subject to a non-
22 disclosure requirement shall inform the person
23 of the applicable nondisclosure requirement.

24 “(D) IDENTIFICATION OF DISCLOSURE RE-
25 CIPIENTS.—At the request of the head of the

1 government agency described in subsection (a)
2 or a designee, any person making or intending
3 to make a disclosure under clause (i) or (iii) of
4 subparagraph (A) shall identify to the head or
5 such designee the person to whom such disclo-
6 sure will be made or to whom such disclosure
7 was made prior to the request.”.

8 (e) INVESTIGATIONS OF PERSONS WITH ACCESS TO
9 CLASSIFIED INFORMATION.—Section 802 of the National
10 Security Act of 1947 (50 U.S.C. 3162) is amended by
11 striking subsection (b) and inserting the following new
12 subsection:

13 “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

14 “(1) PROHIBITION.—

15 “(A) IN GENERAL.—If a certification is
16 issued under subparagraph (B) and notice of
17 the right to judicial review under subsection (c)
18 is provided, no governmental or private entity
19 that receives a request under subsection (a), or
20 officer, employee, or agent thereof, shall dis-
21 close to any person that an authorized inves-
22 tigative agency described in subsection (a) has
23 sought or obtained access to information under
24 subsection (a).

1 “(B) CERTIFICATION.—The requirements
2 of subparagraph (A) shall apply if the head of
3 an authorized investigative agency described in
4 subsection (a), or a designee, certifies that the
5 absence of a prohibition of disclosure under this
6 subsection may result in—

7 “(i) a danger to the national security
8 of the United States;

9 “(ii) interference with a criminal,
10 counterterrorism, or counterintelligence in-
11 vestigation;

12 “(iii) interference with diplomatic re-
13 lations; or

14 “(iv) danger to the life or physical
15 safety of any person.

16 “(2) EXCEPTION.—

17 “(A) IN GENERAL.—A governmental or
18 private entity that receives a request under sub-
19 section (a), or officer, employee, or agent there-
20 of, may disclose information otherwise subject
21 to any applicable nondisclosure requirement
22 to—

23 “(i) those persons to whom disclosure
24 is necessary in order to comply with the re-
25 quest;

1 “(ii) an attorney in order to obtain
2 legal advice or assistance regarding the re-
3 quest; or

4 “(iii) other persons as permitted by
5 the head of the authorized investigative
6 agency described in subsection (a) or a
7 designee.

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

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

20 “(D) IDENTIFICATION OF DISCLOSURE RE-
21 CIPIENTS.—At the request of the head of an
22 authorized investigative agency described in
23 subsection (a), or a designee, any person mak-
24 ing or intending to make a disclosure under
25 clause (i) or (iii) of subparagraph (A) shall

1 identify to the head of the authorized investiga-
2 tive agency or such designee the person to
3 whom such disclosure will be made or to whom
4 such disclosure was made prior to the request.”.

5 (f) TERMINATION PROCEDURES.—

6 (1) IN GENERAL.—Not later than 180 days
7 after the date of enactment of this Act, the Attorney
8 General shall adopt procedures with respect to non-
9 disclosure requirements issued pursuant to section
10 2709 of title 18, United States Code, section 626 or
11 627 of the Fair Credit Reporting Act (15 U.S.C.
12 1681u and 1681v), section 1114 of the Right to Fi-
13 nancial Privacy Act (12 U.S.C. 3414), or section
14 802 of the National Security Act of 1947 (50 U.S.C.
15 3162), as amended by this Act, to require—

16 (A) the review at appropriate intervals of
17 such a nondisclosure requirement to assess
18 whether the facts supporting nondisclosure con-
19 tinue to exist;

20 (B) the termination of such a nondisclo-
21 sure requirement if the facts no longer support
22 nondisclosure; and

23 (C) appropriate notice to the recipient of
24 the national security letter, or officer, employee,
25 or agent thereof, subject to the nondisclosure

1 requirement, and the applicable court as appro-
2 priate, that the nondisclosure requirement has
3 been terminated.

4 (2) REPORTING.—Upon adopting the proce-
5 dures required under paragraph (1), the Attorney
6 General shall submit the procedures to the Com-
7 mittee on the Judiciary of the Senate and the Com-
8 mittee on the Judiciary of the House of Representa-
9 tives.

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

13 “(b) NONDISCLOSURE.—

14 “(1) IN GENERAL.—

15 “(A) NOTICE.—If a recipient of a request
16 or order for a report, records, or other informa-
17 tion under section 2709 of this title, section
18 626 or 627 of the Fair Credit Reporting Act
19 (15 U.S.C. 1681u and 1681v), section 1114 of
20 the Right to Financial Privacy Act of 1978 (12
21 U.S.C. 3414), or section 802 of the National
22 Security Act of 1947 (50 U.S.C. 3162), wishes
23 to have a court review a nondisclosure require-
24 ment imposed in connection with the request or
25 order, the recipient may notify the Government

1 or file a petition for judicial review in any court
2 described in subsection (a).

3 “(B) APPLICATION.—Not later than 30
4 days after the date of receipt of a notification
5 under subparagraph (A), the Government shall
6 apply for an order prohibiting the disclosure of
7 the existence or contents of the relevant request
8 or order. An application under this subpara-
9 graph may be filed in the district court of the
10 United States for the judicial district in which
11 the recipient of the order is doing business or
12 in the district court of the United States for
13 any judicial district within which the authorized
14 investigation that is the basis for the request is
15 being conducted. The applicable nondisclosure
16 requirement shall remain in effect during the
17 pendency of proceedings relating to the require-
18 ment.

19 “(C) CONSIDERATION.—A district court of
20 the United States that receives a petition under
21 subparagraph (A) or an application under sub-
22 paragraph (B) should rule expeditiously, and
23 shall, subject to paragraph (3), issue a non-
24 disclosure order that includes conditions appro-
25 priate to the circumstances.

1 “(2) APPLICATION CONTENTS.—An application
2 for a nondisclosure order or extension thereof or a
3 response to a petition filed under paragraph (1)
4 shall include a certification from the Attorney Gen-
5 eral, Deputy Attorney General, an Assistant Attor-
6 ney General, or the Director of the Federal Bureau
7 of Investigation, or a designee in a position not
8 lower than Deputy Assistant Director at Bureau
9 headquarters or a Special Agent in Charge in a Bu-
10 reau field office designated by the Director, or in the
11 case of a request by a department, agency, or instru-
12 mentality of the Federal Government other than the
13 Department of Justice, the head or deputy head of
14 the department, agency, or instrumentality, con-
15 taining a statement of specific facts indicating that
16 the absence of a prohibition of disclosure under this
17 subsection may result in—

18 “(A) a danger to the national security of
19 the United States;

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

22 “(C) interference with diplomatic relations;

23 or

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

1 “(3) STANDARD.—A district court of the
2 United States shall issue a nondisclosure order or
3 extension thereof under this subsection if the court
4 determines that there is reason to believe that disclo-
5 sure of the information subject to the nondisclosure
6 requirement during the applicable time period may
7 result in—

8 “(A) a danger to the national security of
9 the United States;

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

12 “(C) interference with diplomatic relations;

13 or

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

16 **SEC. 503. JUDICIAL REVIEW.**

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

20 (1) by redesignating subsections (d), (e), and
21 (f) as subsections (e), (f), and (g), respectively; and

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

24 “(d) JUDICIAL REVIEW.—

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

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

8 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
9 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
10 1114 of the Right to Financial Privacy Act of 1978 (12
11 U.S.C. 3414) is amended—

12 (1) by redesignating subsection (d) as sub-
13 section (e); and

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

16 “(d) JUDICIAL REVIEW.—

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

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

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—

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

6 (2) by inserting after subsection (d) the fol-
7 lowing new subsection:

8 “(e) JUDICIAL REVIEW.—

9 “(1) IN GENERAL.—A request under subsection
10 (a) or (b) or an order under subsection (c) or a non-
11 disclosure requirement imposed in connection with
12 such request under subsection (d) shall be subject to
13 judicial review under section 3511 of title 18, United
14 States Code.

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

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

22 (1) by redesignating subsections (d), (e), and
23 (f) as subsections (e), (f), and (g), respectively; and

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

1 “(d) JUDICIAL REVIEW.—

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

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

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

13 (1) by redesignating subsections (c) through (f)
14 as subsections (d) through (g), respectively; and

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

17 “(c) JUDICIAL REVIEW.—

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

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

1 **TITLE VI—FISA TRANSPARENCY**
2 **AND REPORTING REQUIRE-**
3 **MENTS**

4 **SEC. 601. ADDITIONAL REPORTING ON ORDERS REQUIRING**
5 **PRODUCTION OF BUSINESS RECORDS; BUSI-**
6 **NESS RECORDS COMPLIANCE REPORTS TO**
7 **CONGRESS.**

8 (a) REPORTS SUBMITTED TO COMMITTEES.—Section
9 502(b) (50 U.S.C. 1862(b)) is amended—

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

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

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

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

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

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

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

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

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

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

9 (3) by adding at the end the following new sub-
10 paragraphs:

11 “(C) the total number of applications made for
12 orders approving requests for the production of tan-
13 gible things under section 501 in which the specific
14 selection term does not specifically identify an indi-
15 vidual, account, or personal device;

16 “(D) the total number of orders described in
17 subparagraph (C) either granted, modified, or de-
18 nied; and

19 “(E) with respect to orders described in sub-
20 paragraph (D) that have been granted or modified,
21 whether the court established under section 103 has
22 directed additional, particularized minimization pro-
23 cedures beyond those adopted pursuant to section
24 501(g).”.

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

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

5 **“SEC. 603. ANNUAL REPORTS.**

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

8 “(1) REPORT REQUIRED.—The Director of the
9 Administrative Office of the United States Courts
10 shall annually submit to the Permanent Select Com-
11 mittee on Intelligence and the Committee on the Ju-
12 diciary of the House of Representatives and the Se-
13 lect Committee on Intelligence and the Committee
14 on the Judiciary of the Senate, subject to a declas-
15 sification review by the Attorney General and the
16 Director of National Intelligence, a report that in-
17 cludes—

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

21 “(B) the number of such orders granted
22 under each of those sections;

23 “(C) the number of orders modified under
24 each of those sections;

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

1 “(E) the number of appointments of an in-
2 dividual to serve as amicus curiae under section
3 103, including the name of each individual ap-
4 pointed to serve as amicus curiae; and

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

8 “(2) PUBLICATION.—The Director shall make
9 the report required under paragraph (1) publicly
10 available on an Internet Web site, except that the
11 Director shall not make publicly available on an
12 Internet Web site the findings described in subpara-
13 graph (F) of paragraph (1).

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

19 “(1) the total number of orders issued pursuant
20 to titles I and III and sections 703 and 704 and a
21 good faith estimate of the number of targets of such
22 orders;

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

1 “(A) the number of search terms con-
2 cerning a known United States person used to
3 retrieve the unminimized contents of electronic
4 communications or wire communications ob-
5 tained through acquisitions authorized under
6 such section, excluding the number of search
7 terms used to prevent the return of information
8 concerning a United States person; and

9 “(B) the number of queries concerning a
10 known United States person of unminimized
11 noncontents information relating to electronic
12 communications or wire communications ob-
13 tained through acquisitions authorized under
14 such section, excluding the number of queries
15 containing information used to prevent the re-
16 turn of information concerning a United States
17 person;

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

20 “(A) the number of targets of such orders;
21 and

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

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

4 “(A) the number of targets of such orders;
5 and

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

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

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

13 “(B) the number of unique identifiers used
14 to communicate information collected pursuant
15 to such orders; and

16 “(C) the number of search terms that in-
17 cluded information concerning a United States
18 person that were used to query any database of
19 call detail records obtained through the use of
20 such orders; and

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

24 “(c) TIMING.—The annual reports required by sub-
25 sections (a) and (b) shall be made publicly available during

1 April of each year and include information relating to the
2 previous calendar year.

3 “(d) EXCEPTIONS.—

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

10 “(2) NONAPPLICABILITY TO CERTAIN INFORMA-
11 TION.—

12 “(A) FEDERAL BUREAU OF INVESTIGA-
13 TION.—Paragraphs (2)(A), (2)(B), and (5)(C)
14 of subsection (b) shall not apply to information
15 or records held by, or queries conducted by, the
16 Federal Bureau of Investigation.

17 “(B) ELECTRONIC MAIL ADDRESS AND
18 TELEPHONE NUMBERS.—Paragraph (3)(B) of
19 subsection (b) shall not apply to orders result-
20 ing in the acquisition of information by the
21 Federal Bureau of Investigation that does not
22 include electronic mail addresses or telephone
23 numbers.

24 “(3) CERTIFICATION.—

1 “(A) IN GENERAL.—If the Director of Na-
2 tional Intelligence concludes that a good faith
3 estimate required to be reported under sub-
4 section (b)(2)(B) cannot be determined accu-
5 rately because some but not all of the relevant
6 elements of the intelligence community are able
7 to provide such good faith estimate, the Direc-
8 tor shall—

9 “(i) certify that conclusion in writing
10 to the Select Committee on Intelligence
11 and the Committee on the Judiciary of the
12 Senate and the Permanent Select Com-
13 mittee on Intelligence and the Committee
14 on the Judiciary of the House of Rep-
15 resentatives;

16 “(ii) report the good faith estimate for
17 those relevant elements able to provide
18 such good faith estimate;

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

22 “(iv) make such certification publicly
23 available on an Internet Web site.

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

4 “(C) TIMING.—If the Director of National
5 Intelligence continues to conclude that the good
6 faith estimates described in this paragraph can-
7 not be determined accurately, the Director shall
8 annually submit a certification in accordance
9 with this paragraph.

10 “(e) DEFINITIONS.—In this section:

11 “(1) CONTENTS.—The term ‘contents’ has the
12 meaning given that term under section 2510 of title
13 18, United States Code.

14 “(2) ELECTRONIC COMMUNICATION.—The term
15 ‘electronic communication’ has the meaning given
16 that term under section 2510 of title 18, United
17 States Code.

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

21 “(A) section 2709 of title 18, United
22 States Code;

23 “(B) section 1114(a)(5)(A) of the Right to
24 Financial Privacy Act of 1978 (12 U.S.C.
25 3414(a)(5)(A));

1 “(C) subsection (a) or (b) of section 626 of
2 the Fair Credit Reporting Act (15 U.S.C.
3 1681u(a), 1681u(b)); or

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

6 “(4) UNITED STATES PERSON.—The term
7 ‘United States person’ means a citizen of the United
8 States or an alien lawfully admitted for permanent
9 residence (as defined in section 101(a) of the Immig-
10 ration and Nationality Act (8 U.S.C. 1101(a))).

11 “(5) WIRE COMMUNICATION.—The term ‘wire
12 communication’ has the meaning given that term
13 under section 2510 of title 18, United States
14 Code.”.

15 (b) TABLE OF CONTENTS AMENDMENT.—The table
16 of contents, as amended by section 402 of this Act, is fur-
17 ther amended by inserting after the item relating to sec-
18 tion 602, as added by section 402 of this Act, the following
19 new item:

 “Sec. 603. Annual reports.”.

20 (c) PUBLIC REPORTING ON NATIONAL SECURITY
21 LETTERS.—Section 118(c) of the USA PATRIOT Im-
22 provement and Reauthorization Act of 2005 (18 U.S.C.
23 3511 note) is amended—

24 (1) in paragraph (1)—

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

3 (B) in subparagraph (A), by striking “, ex-
4 cluding the number of requests for subscriber
5 information”;

6 (2) by redesignating paragraph (2) as para-
7 graph (3); and

8 (3) by inserting after paragraph (1) the fol-
9 lowing:

10 “(2) CONTENT.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), each report required under
13 this subsection shall include a good faith esti-
14 mate of the total number of requests described
15 in paragraph (1) requiring disclosure of infor-
16 mation concerning—

17 “(i) United States persons; and

18 “(ii) persons who are not United
19 States persons.

20 “(B) EXCEPTION.—With respect to the
21 number of requests for subscriber information
22 under section 2709 of title 18, United States
23 Code, a report required under this subsection
24 need not separate the number of requests into

1 each of the categories described in subpara-
2 graph (A).”.

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

5 (1) in paragraph (1), by striking “; and” and
6 inserting a semicolon;

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

9 (3) by adding at the end the following new
10 paragraph:

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

14 **SEC. 603. PUBLIC REPORTING BY PERSONS SUBJECT TO**
15 **FISA ORDERS.**

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

19 **“SEC. 604. PUBLIC REPORTING BY PERSONS SUBJECT TO**
20 **ORDERS.**

21 “(a) REPORTING.—A person subject to a nondislo-
22 sure requirement accompanying an order or directive
23 under this Act or a national security letter may, with re-
24 spect to such order, directive, or national security letter,

1 publicly report the following information using one of the
2 following structures:

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

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

10 “(B) the number of customer selectors tar-
11 geted by national security letters, reported in
12 bands of 1000 starting with 0–999;

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

16 “(D) the number of customer selectors tar-
17 geted under orders or directives received, com-
18 bined, under this Act for contents reported in
19 bands of 1000 starting with 0–999;

20 “(E) the number of orders received under
21 this Act for noncontents, reported in bands of
22 1000 starting with 0–999; and

23 “(F) the number of customer selectors tar-
24 geted under orders under this Act for noncon-

1 tents, reported in bands of 1000 starting with
2 0–999, pursuant to—

3 “(i) title IV;

4 “(ii) title V with respect to applica-
5 tions described in section 501(b)(2)(B);
6 and

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

9 “(2) 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 500 starting
15 with 0–499;

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

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

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

1 “(E) the number of orders received under
2 this Act for noncontents, reported in bands of
3 500 starting with 0–499; and

4 “(F) the number of customer selectors tar-
5 geted under orders received under this Act for
6 noncontents, reported in bands of 500 starting
7 with 0–499.

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

12 “(A) the total number of all national secu-
13 rity process received, including all national se-
14 curity letters, and orders or directives under
15 this Act, combined, reported in bands of 250
16 starting with 0–249; and

17 “(B) the total number of customer selec-
18 tors targeted under all national security process
19 received, including all national security letters,
20 and orders or directives under this Act, com-
21 bined, reported in bands of 250 starting with
22 0–249.

23 “(4) An annual report that aggregates the
24 number of orders, directives, and national security

1 letters the person was required to comply with into
2 separate categories of—

3 “(A) the total number of all national secu-
4 rity process received, including all national se-
5 curity letters, and orders or directives under
6 this Act, combined, reported in bands of 100
7 starting with 0–99; and

8 “(B) the total number of customer selec-
9 tors targeted under all national security process
10 received, including all national security letters,
11 and orders or directives under this Act, com-
12 bined, reported in bands of 100 starting with
13 0–99.

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

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

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

19 “(B) relating to authorities under this Act
20 for the 180-day period of time ending on the
21 date that is not less than 180 days prior to the
22 date of the publication of such report, except
23 that with respect to a platform, product, or
24 service for which a person did not previously re-
25 ceive an order or directive (not including an en-

1 hancement to or iteration of an existing publicly
2 available platform, product, or service) such re-
3 port shall not include any information relating
4 to such new order or directive until 540 days
5 after the date on which such new order or di-
6 rective is received.

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

10 “(3) A report described in paragraph (4) of
11 subsection (a) shall include only information for the
12 1-year period of time ending on the date that is not
13 less than 1 year prior to the date of the publication
14 of such report.

15 “(c) OTHER FORMS OF AGREED TO PUBLICATION.—
16 Nothing in this section prohibits the Government and any
17 person from jointly agreeing to the publication of informa-
18 tion referred to in this subsection in a time, form, or man-
19 ner other than as described in this section.

20 “(d) DEFINITIONS.—In this section:

21 “(1) CONTENTS.—The term ‘contents’ has the
22 meaning given that term under section 2510 of title
23 18, United States Code.

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

4 (b) TABLE OF CONTENTS AMENDMENT.—The table
5 of contents, as amended by sections 402 and 602 of this
6 Act, is further amended by inserting after the item relat-
7 ing to section 603, as added by section 602 of this Act,
8 the following new item:

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

9 **SEC. 604. REPORTING REQUIREMENTS FOR DECISIONS, OR-**
10 **DERS, AND OPINIONS OF THE FOREIGN IN-**
11 **TELLIGENCE SURVEILLANCE COURT AND**
12 **THE FOREIGN INTELLIGENCE SURVEIL-**
13 **LANCE COURT OF REVIEW.**

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

16 “(1) not later than 45 days after the date on
17 which the Foreign Intelligence Surveillance Court or
18 the Foreign Intelligence Surveillance Court of Re-
19 view issues a decision, order, or opinion, including
20 any denial or modification of an application under
21 this Act, that includes significant construction or in-
22 terpretation of any provision of law or results in a
23 change of application of any provision of this Act or
24 a novel application of any provision of this Act, a
25 copy of such decision, order, or opinion and any

1 pleadings, applications, or memoranda of law associ-
2 ated with such decision, order, or opinion; and”.

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

4 (a) **ELECTRONIC SURVEILLANCE.**—Section 108(a)(1)
5 (50 U.S.C. 1808(a)(1)) is amended by striking “the
6 House Permanent Select Committee on Intelligence and
7 the Senate Select Committee on Intelligence, and the
8 Committee on the Judiciary of the Senate,” and inserting
9 “the Permanent Select Committee on Intelligence and the
10 Committee on the Judiciary of the House of Representa-
11 tives and the Select Committee on Intelligence and the
12 Committee on the Judiciary of the Senate”.

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

16 (1) in the first sentence, by striking “Perma-
17 nent Select Committee on Intelligence of the House
18 of Representatives and the Select Committee on In-
19 telligence of the Senate, and the Committee on the
20 Judiciary of the Senate,” and inserting “Permanent
21 Select Committee on Intelligence and the Committee
22 on the Judiciary of the House of Representatives
23 and the Select Committee on Intelligence and the
24 Committee on the Judiciary of the Senate”; and

1 (2) in the second sentence, by striking “and the
2 Committee on the Judiciary of the House of Rep-
3 representatives”.

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

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

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

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

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

19 “(5) for each department or agency described in
20 paragraph (4), each number described in paragraphs
21 (1), (2), and (3).”.

22 (d) ACCESS TO CERTAIN BUSINESS RECORDS AND
23 OTHER TANGIBLE THINGS.—Section 502(a) (50 U.S.C.
24 1862(a)) is amended by striking “Permanent Select Com-
25 mittee on Intelligence of the House of Representatives and

1 the Select Committee on Intelligence and the Committee
2 on the Judiciary of the Senate” and inserting “Permanent
3 Select Committee on Intelligence and the Committee on
4 the Judiciary of the House of Representatives and the Se-
5 lect Committee on Intelligence and the Committee on the
6 Judiciary of the Senate”.

7 **TITLE VII—ENHANCED NA-**
8 **TIONAL SECURITY PROVI-**
9 **SIONS**

10 **SEC. 701. EMERGENCIES INVOLVING NON-UNITED STATES**
11 **PERSONS.**

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

14 (1) by redesignating subsections (f), (g), (h),
15 and (i) as subsections (g), (h), (i), and (j), respec-
16 tively; and

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

19 “(f)(1) Notwithstanding any other provision of this
20 Act, the lawfully authorized targeting of a non-United
21 States person previously believed to be located outside the
22 United States for the acquisition of foreign intelligence in-
23 formation may continue for a period not to exceed 72
24 hours from the time that the non-United States person
25 is reasonably believed to be located inside the United

1 States and the acquisition is subject to this title or to title
2 III of this Act, provided that the head of an element of
3 the intelligence community—

4 “(A) reasonably determines that a lapse in the
5 targeting of such non-United States person poses a
6 threat of death or serious bodily harm to any per-
7 son;

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

10 “(C) requests, as soon as practicable, the em-
11 ployment of emergency electronic surveillance under
12 subsection (e) or the employment of an emergency
13 physical search pursuant to section 304(e), as war-
14 ranted.

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

19 “(A) The employment of emergency electronic
20 surveillance under subsection (e) or the employment
21 of an emergency physical search pursuant to section
22 304(e).

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

1 “(C) The Attorney General provides direction
2 that the acquisition be terminated.

3 “(D) The head of the element of the intel-
4 ligence community conducting the acquisition deter-
5 mines that a request under paragraph (1)(C) is not
6 warranted.

7 “(E) When the threat of death or serious bodily
8 harm to any person is no longer reasonably believed
9 to exist.

10 “(3) Nonpublicly available information concerning
11 unconsenting United States persons acquired under this
12 subsection shall not be disseminated during the 72 hour
13 time period under paragraph (1) unless necessary to inves-
14 tigate, reduce, or eliminate the threat of death or serious
15 bodily harm to any person.

16 “(4) If the Attorney General declines to authorize the
17 employment of emergency electronic surveillance under
18 subsection (e) or the employment of an emergency physical
19 search pursuant to section 304(e), or a court order is not
20 obtained under this title or title III of this Act, informa-
21 tion obtained during the 72 hour acquisition time period
22 under paragraph (1) shall not be retained, except with the
23 approval of the Attorney General if the information indi-
24 cates a threat of death or serious bodily harm to any per-
25 son.

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

3 (b) NOTIFICATION OF EMERGENCY EMPLOYMENT OF
4 ELECTRONIC SURVEILLANCE.—Section 106(j) (50 U.S.C.
5 1806(j)) is amended by striking “section 105(e)” and in-
6 serting “subsection (e) or (f) of section 105”.

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

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

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

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

14 “(D) the total number of authorizations
15 under section 105(f) and the total number of
16 subsequent emergency employments of elec-
17 tronic surveillance under section 105(e) or
18 emergency physical searches pursuant to section
19 301(e).”.

20 **SEC. 702. PRESERVATION OF TREATMENT OF NON-UNITED**
21 **STATES PERSONS TRAVELING OUTSIDE THE**
22 **UNITED STATES AS AGENTS OF FOREIGN**
23 **POWERS.**

24 Section 101(b)(1) is amended—

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

4 (2) in subparagraph (B)—

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

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

9 **SEC. 703. IMPROVEMENT TO INVESTIGATIONS OF INTER-**
10 **NATIONAL PROLIFERATION OF WEAPONS OF**
11 **MASS DESTRUCTION.**

12 Section 101(b)(1) is further amended by striking sub-
13 paragraph (E) and inserting the following new subpara-
14 graph (E):

15 “(E) engages in the international prolifera-
16 tion of weapons of mass destruction, or activi-
17 ties in preparation therefor, for or on behalf of
18 a foreign power, or knowingly aids or abets any
19 person in the conduct of such proliferation or
20 activities in preparation therefor, or knowingly
21 conspires with any person to engage in such
22 proliferation or activities in preparation there-
23 for; or”.

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

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

7 **SEC. 705. SUNSETS.**

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

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

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

113

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)”;

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.”.