

114TH CONGRESS  
1ST SESSION

# H. R. 2048

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## AN ACT

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

1        *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

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

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

TITLE I—FISA BUSINESS RECORDS REFORMS

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

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

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

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

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

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT  
REFORMS

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

TITLE V—NATIONAL SECURITY LETTER REFORM

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

TITLE VI—FISA TRANSPARENCY AND REPORTING  
REQUIREMENTS

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

TITLE VII—ENHANCED NATIONAL SECURITY PROVISIONS

- Sec. 701. Emergencies involving non-United States persons.
- Sec. 702. Preservation of treatment of non-United States persons traveling outside the United States as agents of foreign powers.
- Sec. 703. Improvement to investigations of international proliferation of weapons of mass destruction.
- Sec. 704. Increase in penalties for material support of foreign terrorist organizations.
- Sec. 705. Sunsets.

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

Subtitle A—Safety of Maritime Navigation

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

Subtitle B—Prevention of Nuclear Terrorism

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

**1 SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE**

**2 SURVEILLANCE ACT OF 1978.**

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

1                   **TITLE I—FISA BUSINESS**  
2                   **RECORDS REFORMS**

3 **SEC. 101. ADDITIONAL REQUIREMENTS FOR CALL DETAIL**  
4                   **RECORDS.**

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

7               (1) in subparagraph (A)—

8                       (A) in the matter preceding clause (i), by  
9                       striking “a statement” and inserting “in the  
10                      case of an application other than an application  
11                      described in subparagraph (C) (including an ap-  
12                      plication for the production of call detail  
13                      records other than in the manner described in  
14                      subparagraph (C)), a statement”; and

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

17               (2) by redesignating subparagraphs (A) and  
18               (B) as subparagraphs (B) and (D), respectively; and

19               (3) by inserting after subparagraph (B) (as so  
20               redesignated) the following new subparagraph:

21                       “(C) in the case of an application for the  
22                       production on an ongoing basis of call detail  
23                       records created before, on, or after the date of  
24                       the application relating to an authorized inves-  
25                       tigation (other than a threat assessment) con-

1           ducted in accordance with subsection (a)(2) to  
2           protect against international terrorism, a state-  
3           ment of facts showing that—

4                   “(i) there are reasonable grounds to  
5                   believe that the call detail records sought  
6                   to be produced based on the specific selec-  
7                   tion term required under subparagraph (A)  
8                   are relevant to such investigation; and

9                   “(ii) there is a reasonable, articulable  
10                  suspicion that such specific selection term  
11                  is associated with a foreign power engaged  
12                  in international terrorism or activities in  
13                  preparation therefor, or an agent of a for-  
14                  eign power engaged in international ter-  
15                  rorism or activities in preparation therefor;  
16                  and”.

17       (b)   ORDER.—Section   501(c)(2)   (50   U.S.C.  
18 1861(c)(2)) is amended—

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

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

23           (3) by adding at the end the following new sub-  
24           paragraph:

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

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

6                   “(ii) provide that an order for such  
7                   production may be extended upon applica-  
8                   tion under subsection (b) and the judicial  
9                   finding under paragraph (1) of this sub-  
10                  section;

11                  “(iii) provide that the Government  
12                  may require the prompt production of a  
13                  first set of call detail records using the  
14                  specific selection term that satisfies the  
15                  standard required under subsection  
16                  (b)(2)(C)(ii);

17                  “(iv) provide that the Government  
18                  may require the prompt production of a  
19                  second set of call detail records using ses-  
20                  sion-identifying information or a telephone  
21                  calling card number identified by the spe-  
22                  cific selection term used to produce call de-  
23                  tail records under clause (iii);

1           “(v) provide that, when produced,  
2           such records be in a form that will be use-  
3           ful to the Government;

4           “(vi) direct each person the Govern-  
5           ment directs to produce call detail records  
6           under the order to furnish the Government  
7           forthwith all information, facilities, or  
8           technical assistance necessary to accom-  
9           plish the production in such a manner as  
10          will protect the secrecy of the production  
11          and produce a minimum of interference  
12          with the services that such person is pro-  
13          viding to each subject of the production;  
14          and

15          “(vii) direct the Government to—

16                 “(I) adopt minimization proce-  
17                 dures that require the prompt de-  
18                 struction of all call detail records pro-  
19                 duced under the order that the Gov-  
20                 ernment determines are not foreign  
21                 intelligence information; and

22                 “(II) destroy all call detail  
23                 records produced under the order as  
24                 prescribed by such procedures.”.

1 **SEC. 102. EMERGENCY AUTHORITY.**

2 (a) AUTHORITY.—Section 501 (50 U.S.C. 1861) is  
3 amended by adding at the end the following new sub-  
4 section:

5 “(i) EMERGENCY AUTHORITY FOR PRODUCTION OF  
6 TANGIBLE THINGS.—

7 “(1) Notwithstanding any other provision of  
8 this section, the Attorney General may require the  
9 emergency production of tangible things if the Attor-  
10 ney General—

11 “(A) reasonably determines that an emer-  
12 gency situation requires the production of tan-  
13 gible things before an order authorizing such  
14 production can with due diligence be obtained;

15 “(B) reasonably determines that the fac-  
16 tual basis for the issuance of an order under  
17 this section to approve such production of tan-  
18 gible things exists;

19 “(C) informs, either personally or through  
20 a designee, a judge having jurisdiction under  
21 this section at the time the Attorney General  
22 requires the emergency production of tangible  
23 things that the decision has been made to em-  
24 ploy the authority under this subsection; and

25 “(D) makes an application in accordance  
26 with this section to a judge having jurisdiction



1           under this section as soon as practicable, but  
2           not later than 7 days after the Attorney Gen-  
3           eral requires the emergency production of tan-  
4           gible things under this subsection.

5           “(2) If the Attorney General requires the emer-  
6           gency production of tangible things under paragraph  
7           (1), the Attorney General shall require that the  
8           minimization procedures required by this section for  
9           the issuance of a judicial order be followed.

10           “(3) In the absence of a judicial order approv-  
11           ing the production of tangible things under this sub-  
12           section, the production shall terminate when the in-  
13           formation sought is obtained, when the application  
14           for the order is denied, or after the expiration of 7  
15           days from the time the Attorney General begins re-  
16           quiring the emergency production of such tangible  
17           things, whichever is earliest.

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

21           “(5) If such application for approval is denied,  
22           or in any other case where the production of tangible  
23           things is terminated and no order is issued approv-  
24           ing the production, no information obtained or evi-  
25           dence derived from such production shall be received

1 in evidence or otherwise disclosed in any trial, hear-  
2 ing, or other proceeding in or before any court,  
3 grand jury, department, office, agency, regulatory  
4 body, legislative committee, or other authority of the  
5 United States, a State, or a political subdivision  
6 thereof, and no information concerning any United  
7 States person acquired from such production shall  
8 subsequently be used or disclosed in any other man-  
9 ner by Federal officers or employees without the  
10 consent of such person, except with the approval of  
11 the Attorney General if the information indicates a  
12 threat of death or serious bodily harm to any per-  
13 son.

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

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

18 (1) in paragraph (1)—

19 (A) in the matter preceding subparagraph  
20 (A), by striking “pursuant to an order” and in-  
21 serting “pursuant to an order issued or an  
22 emergency production required”;

23 (B) in subparagraph (A), by striking “such  
24 order” and inserting “such order or such emer-  
25 gency production”; and

1 (C) in subparagraph (B), by striking “the  
2 order” and inserting “the order or the emer-  
3 gency production”; and

4 (2) in paragraph (2)—

5 (A) in subparagraph (A), by striking “an  
6 order” and inserting “an order or emergency  
7 production”; and

8 (B) in subparagraph (B), by striking “an  
9 order” and inserting “an order or emergency  
10 production”.

11 **SEC. 103. PROHIBITION ON BULK COLLECTION OF TAN-**  
12 **GIBLE THINGS.**

13 (a) APPLICATION.—Section 501(b)(2) (50 U.S.C.  
14 1861(b)(2)), as amended by section 101(a) of this Act,  
15 is further amended by inserting before subparagraph (B),  
16 as redesignated by such section 101(a) of this Act, the  
17 following new subparagraph:

18 “(A) a specific selection term to be used as  
19 the basis for the production of the tangible  
20 things sought;”.

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

23 (1) in paragraph (2)(A), by striking the semi-  
24 colon and inserting “, including each specific selec-

1       tion term to be used as the basis for the produc-  
2       tion;” and

3               (2) by adding at the end the following new  
4       paragraph:

5               “(3) No order issued under this subsection may  
6       authorize the collection of tangible things without  
7       the use of a specific selection term that meets the  
8       requirements of subsection (b)(2).”.

9       **SEC. 104. JUDICIAL REVIEW.**

10       (a) MINIMIZATION PROCEDURES.—

11               (1) JUDICIAL REVIEW.—Section 501(c)(1) (50  
12       U.S.C. 1861(c)(1)) is amended by inserting after  
13       “subsections (a) and (b)” the following: “and that  
14       the minimization procedures submitted in accord-  
15       ance with subsection (b)(2)(D) meet the definition of  
16       minimization procedures under subsection (g)”.

17               (2) RULE OF CONSTRUCTION.—Section 501(g)  
18       (50 U.S.C. 1861(g)) is amended by adding at the  
19       end the following new paragraph:

20               “(3) RULE OF CONSTRUCTION.—Nothing in  
21       this subsection shall limit the authority of the court  
22       established under section 103(a) to impose addi-  
23       tional, particularized minimization procedures with  
24       regard to the production, retention, or dissemination  
25       of nonpublicly available information concerning

1       unconsenting United States persons, including addi-  
2       tional, particularized procedures related to the de-  
3       struction of information within a reasonable time pe-  
4       riod.”.

5           (3) TECHNICAL AND CONFORMING AMEND-  
6       MENT.—Section 501(g)(1) (50 U.S.C. 1861(g)(1)) is  
7       amended—

8           (A) by striking “Not later than 180 days  
9           after the date of the enactment of the USA PA-  
10          TRIOT Improvement and Reauthorization Act  
11          of 2005, the” and inserting “The”; and

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

14       (b) ORDERS.—Section 501(f)(2) (50 U.S.C.  
15       1861(f)(2)) is amended—

16           (1) in subparagraph (A)(i)—

17           (A) by striking “that order” and inserting  
18           “the production order or any nondisclosure  
19           order imposed in connection with the produc-  
20           tion order”; and

21           (B) by striking the second sentence; and

22           (2) in subparagraph (C)—

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

24           (B) by redesignating clause (iii) as clause  
25           (ii).

1 **SEC. 105. LIABILITY PROTECTION.**

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

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

6 “(A) produces tangible things or provides infor-  
7 mation, facilities, or technical assistance in accord-  
8 ance with an order issued or an emergency produc-  
9 tion required under this section; or

10 “(B) otherwise provides technical assistance to  
11 the Government under this section or to implement  
12 the amendments made to this section by the USA  
13 FREEDOM Act of 2015.

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

18 **SEC. 106. COMPENSATION FOR ASSISTANCE.**

19 Section 501 (50 U.S.C. 1861), as amended by section  
20 102 of this Act, is further amended by adding at the end  
21 the following new subsection:

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

24 “(1) producing tangible things or providing in-  
25 formation, facilities, or assistance in accordance with  
26 an order issued with respect to an application de-

1 scribed in subsection (b)(2)(C) or an emergency pro-  
2 duction under subsection (i) that, to comply with  
3 subsection (i)(1)(D), requires an application de-  
4 scribed in subsection (b)(2)(C); or

5 “(2) otherwise providing technical assistance to  
6 the Government under this section or to implement  
7 the amendments made to this section by the USA  
8 FREEDOM Act of 2015.”.

9 **SEC. 107. DEFINITIONS.**

10 Section 501 (50 U.S.C. 1861), as amended by section  
11 106 of this Act, is further amended by adding at the end  
12 the following new subsection:

13 “(k) DEFINITIONS.—In this section:

14 “(1) IN GENERAL.—The terms ‘foreign power’,  
15 ‘agent of a foreign power’, ‘international terrorism’,  
16 ‘foreign intelligence information’, ‘Attorney General’,  
17 ‘United States person’, ‘United States’, ‘person’, and  
18 ‘State’ have the meanings provided those terms in  
19 section 101.

20 “(2) ADDRESS.—The term ‘address’ means a  
21 physical address or electronic address, such as an  
22 electronic mail address or temporarily assigned net-  
23 work address (including an Internet protocol ad-  
24 dress).

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

3           “(A) means session-identifying information  
4 (including an originating or terminating tele-  
5 phone number, an International Mobile Sub-  
6 scriber Identity number, or an International  
7 Mobile Station Equipment Identity number), a  
8 telephone calling card number, or the time or  
9 duration of a call; and

10          “(B) does not include—

11           “(i) the contents (as defined in section  
12 2510(8) of title 18, United States Code) of  
13 any communication;

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

16           “(iii) cell site location or global posi-  
17 tioning system information.

18          “(4) SPECIFIC SELECTION TERM.—

19           “(A) TANGIBLE THINGS.—

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

23           “(I) is a term that specifically  
24 identifies a person, account, address,



1 or personal device, or any other spe-  
2 cific identifier; and

3 “(II) is used to limit, to the  
4 greatest extent reasonably practicable,  
5 the scope of tangible things sought  
6 consistent with the purpose for seek-  
7 ing the tangible things.

8 “(ii) LIMITATION.—A specific selec-  
9 tion term under clause (i) does not include  
10 an identifier that does not limit, to the  
11 greatest extent reasonably practicable, the  
12 scope of tangible things sought consistent  
13 with the purpose for seeking the tangible  
14 things, such as an identifier that—

15 “(I) identifies an electronic com-  
16 munication service provider (as that  
17 term is defined in section 701) or a  
18 provider of remote computing service  
19 (as that term is defined in section  
20 2711 of title 18, United States Code),  
21 when not used as part of a specific  
22 identifier as described in clause (i),  
23 unless the provider is itself a subject  
24 of an authorized investigation for  
25 which the specific selection term is

1 used as the basis for the production;  
2 or

3 “(II) identifies a broad geo-  
4 graphic region, including the United  
5 States, a city, a county, a State, a zip  
6 code, or an area code, when not used  
7 as part of a specific identifier as de-  
8 scribed in clause (i).

9 “(iii) RULE OF CONSTRUCTION.—  
10 Nothing in this paragraph shall be con-  
11 strued to preclude the use of multiple  
12 terms or identifiers to meet the require-  
13 ments of clause (i).

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

20 **SEC. 108. INSPECTOR GENERAL REPORTS ON BUSINESS**  
21 **RECORDS ORDERS.**

22 Section 106A of the USA PATRIOT Improvement  
23 and Reauthorization Act of 2005 (Public Law 109–177;  
24 120 Stat. 200) is amended—

25 (1) in subsection (b)—

1 (A) in paragraph (1), by inserting “and  
2 calendar years 2012 through 2014” after  
3 “2006”;

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

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

7 (D) in paragraph (3) (as so redesign-  
8 nated)—

9 (i) by striking subparagraph (C) and  
10 inserting the following new subparagraph:

11 “(C) with respect to calendar years 2012  
12 through 2014, an examination of the minimiza-  
13 tion procedures used in relation to orders under  
14 section 501 of the Foreign Intelligence Surveil-  
15 lance Act of 1978 (50 U.S.C. 1861) and wheth-  
16 er the minimization procedures adequately pro-  
17 tect the constitutional rights of United States  
18 persons;”; and

19 (ii) in subparagraph (D), by striking

20 “(as such term is defined in section 3(4) of  
21 the National Security Act of 1947 (50  
22 U.S.C. 401a(4))”;

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

1           “(3) CALENDAR YEARS 2012 THROUGH 2014.—  
2           Not later than 1 year after the date of enactment  
3           of the USA FREEDOM Act of 2015, the Inspector  
4           General of the Department of Justice shall submit  
5           to the Committee on the Judiciary and the Select  
6           Committee on Intelligence of the Senate and the  
7           Committee on the Judiciary and the Permanent Se-  
8           lect Committee on Intelligence of the House of Rep-  
9           resentatives a report containing the results of the  
10          audit conducted under subsection (a) for calendar  
11          years 2012 through 2014.”;

12           (3) by redesignating subsections (d) and (e) as  
13          subsections (e) and (f), respectively;

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

16          “(d) INTELLIGENCE ASSESSMENT.—

17           “(1) IN GENERAL.—For the period beginning  
18          on January 1, 2012, and ending on December 31,  
19          2014, the Inspector General of the Intelligence Com-  
20          munity shall assess—

21           “(A) the importance of the information ac-  
22          quired under title V of the Foreign Intelligence  
23          Surveillance Act of 1978 (50 U.S.C. 1861 et  
24          seq.) to the activities of the intelligence commu-  
25          nity;

1           “(B) the manner in which that information  
2 was collected, retained, analyzed, and dissemi-  
3 nated by the intelligence community;

4           “(C) the minimization procedures used by  
5 elements of the intelligence community under  
6 such title and whether the minimization proce-  
7 dures adequately protect the constitutional  
8 rights of United States persons; and

9           “(D) any minimization procedures pro-  
10 posed by an element of the intelligence commu-  
11 nity under such title that were modified or de-  
12 nied by the court established under section  
13 103(a) of such Act (50 U.S.C. 1803(a)).

14           “(2) SUBMISSION DATE FOR ASSESSMENT.—  
15 Not later than 180 days after the date on which the  
16 Inspector General of the Department of Justice sub-  
17 mits the report required under subsection (c)(3), the  
18 Inspector General of the Intelligence Community  
19 shall submit to the Committee on the Judiciary and  
20 the Select Committee on Intelligence of the Senate  
21 and the Committee on the Judiciary and the Perma-  
22 nent Select Committee on Intelligence of the House  
23 of Representatives a report containing the results of  
24 the assessment for calendar years 2012 through  
25 2014.”;

1           (5) in subsection (e), as redesignated by para-  
2 graph (3)—

3           (A) in paragraph (1)—

4           (i) by striking “a report under sub-  
5 section (c)(1) or (c)(2)” and inserting “any  
6 report under subsection (c) or (d)”; and

7           (ii) by striking “Inspector General of  
8 the Department of Justice” and inserting  
9 “Inspector General of the Department of  
10 Justice, the Inspector General of the Intel-  
11 ligence Community, and any Inspector  
12 General of an element of the intelligence  
13 community that prepares a report to assist  
14 the Inspector General of the Department  
15 of Justice or the Inspector General of the  
16 Intelligence Community in complying with  
17 the requirements of this section”; and

18           (B) in paragraph (2), by striking “the re-  
19 ports submitted under subsections (c)(1) and  
20 (c)(2)” and inserting “any report submitted  
21 under subsection (c) or (d)”; and

22           (6) in subsection (f), as redesignated by para-  
23 graph (3)—

24           (A) by striking “The reports submitted  
25 under subsections (c)(1) and (c)(2)” and insert-

1 ing “Each report submitted under subsection  
2 (e)”;

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

5 (7) by adding at the end the following new sub-  
6 section:

7 “(g) DEFINITIONS.—In this section:

8 “(1) INTELLIGENCE COMMUNITY.—The term  
9 ‘intelligence community’ has the meaning given that  
10 term in section 3 of the National Security Act of  
11 1947 (50 U.S.C. 3003).

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

16 **SEC. 109. EFFECTIVE DATE.**

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

20 (b) RULE OF CONSTRUCTION.—Nothing in this Act  
21 shall be construed to alter or eliminate the authority of  
22 the Government to obtain an order under title V of the  
23 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.  
24 1861 et seq.) as in effect prior to the effective date de-

1 scribed in subsection (a) during the period ending on such  
2 effective date.

3 **SEC. 110. RULE OF CONSTRUCTION.**

4 Nothing in this Act shall be construed to authorize  
5 the production of the contents (as such term is defined  
6 in section 2510(8) of title 18, United States Code) of any  
7 electronic communication from an electronic communica-  
8 tion service provider (as such term is defined in section  
9 701(b)(4) of the Foreign Intelligence Surveillance Act of  
10 1978 (50 U.S.C. 1881(b)(4))) under title V of the Foreign  
11 Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et  
12 seq.).

13 **TITLE II—FISA PEN REGISTER**  
14 **AND TRAP AND TRACE DE-**  
15 **VICE REFORM**

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

17 (a) PROHIBITION.—Section 402(c) (50 U.S.C.  
18 1842(c)) is amended—

19 (1) in paragraph (1), by striking “; and” and  
20 inserting a semicolon;

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

23 (3) by adding at the end the following new  
24 paragraph:



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

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

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

8                   “(i) is a term that specifically identifies a  
9                   person, account, address, or personal device, or  
10                  any other specific identifier; and

11                  “(ii) is used to limit, to the greatest extent  
12                  reasonably practicable, the scope of information  
13                  sought, consistent with the purpose for seeking  
14                  the use of the pen register or trap and trace de-  
15                  vice.

16           “(B) A specific selection term under subpara-  
17           graph (A) does not include an identifier that does  
18           not limit, to the greatest extent reasonably prac-  
19           ticable, the scope of information sought, consistent  
20           with the purpose for seeking the use of the pen reg-  
21           ister or trap and trace device, such as an identifier  
22           that—

23                   “(i) identifies an electronic communication  
24                   service provider (as that term is defined in sec-  
25                   tion 701) or a provider of remote computing

1 service (as that term is defined in section 2711  
2 of title 18, United States Code), when not used  
3 as part of a specific identifier as described in  
4 subparagraph (A), unless the provider is itself  
5 a subject of an authorized investigation for  
6 which the specific selection term is used as the  
7 basis for the use; or

8 “(ii) identifies a broad geographic region,  
9 including the United States, a city, a county, a  
10 State, a zip code, or an area code, when not  
11 used as part of a specific identifier as described  
12 in subparagraph (A).

13 “(C) For purposes of subparagraph (A), the  
14 term ‘address’ means a physical address or elec-  
15 tronic address, such as an electronic mail address or  
16 temporarily assigned network address (including an  
17 Internet protocol address).

18 “(D) Nothing in this paragraph shall be con-  
19 strued to preclude the use of multiple terms or iden-  
20 tifiers to meet the requirements of subparagraph  
21 (A).”.

22 **SEC. 202. PRIVACY PROCEDURES.**

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

1 “(h) PRIVACY PROCEDURES.—

2 “(1) IN GENERAL.—The Attorney General shall  
3 ensure that appropriate policies and procedures are  
4 in place to safeguard nonpublicly available informa-  
5 tion concerning United States persons that is col-  
6 lected through the use of a pen register or trap and  
7 trace device installed under this section. Such poli-  
8 cies and procedures shall, to the maximum extent  
9 practicable and consistent with the need to protect  
10 national security, include privacy protections that  
11 apply to the collection, retention, and use of infor-  
12 mation concerning United States persons.

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

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

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

1 **TITLE III—FISA ACQUISITIONS**  
2 **TARGETING PERSONS OUT-**  
3 **SIDE THE UNITED STATES RE-**  
4 **FORMS**

5 **SEC. 301. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-**  
6 **FORMATION.**

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

9 “(D) LIMITATION ON USE OF INFORMA-  
10 TION.—

11 “(i) IN GENERAL.—Except as pro-  
12 vided in clause (ii), if the Court orders a  
13 correction of a deficiency in a certification  
14 or procedures under subparagraph (B), no  
15 information obtained or evidence derived  
16 pursuant to the part of the certification or  
17 procedures that has been identified by the  
18 Court as deficient concerning any United  
19 States person shall be received in evidence  
20 or otherwise disclosed in any trial, hearing,  
21 or other proceeding in or before any court,  
22 grand jury, department, office, agency,  
23 regulatory body, legislative committee, or  
24 other authority of the United States, a  
25 State, or political subdivision thereof, and

1 no information concerning any United  
2 States person acquired pursuant to such  
3 part of such certification or procedures  
4 shall subsequently be used or disclosed in  
5 any other manner by Federal officers or  
6 employees without the consent of the  
7 United States person, except with the ap-  
8 proval of the Attorney General if the infor-  
9 mation indicates a threat of death or seri-  
10 ous bodily harm to any person.

11 “(ii) EXCEPTION.—If the Government  
12 corrects any deficiency identified by the  
13 order of the Court under subparagraph  
14 (B), the Court may permit the use or dis-  
15 closure of information obtained before the  
16 date of the correction under such mini-  
17 mization procedures as the Court may ap-  
18 prove for purposes of this clause.”.

19 **TITLE IV—FOREIGN INTEL-**  
20 **LIGENCE SURVEILLANCE**  
21 **COURT REFORMS**

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

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

25 “(i) AMICUS CURIAE.—

1           “(1) DESIGNATION.—The presiding judges of  
2 the courts established under subsections (a) and (b)  
3 shall, not later than 180 days after the enactment  
4 of this subsection, jointly designate not fewer than  
5 5 individuals to be eligible to serve as amicus curiae,  
6 who shall serve pursuant to rules the presiding  
7 judges may establish. In designating such individ-  
8 uals, the presiding judges may consider individuals  
9 recommended by any source, including members of  
10 the Privacy and Civil Liberties Oversight Board, the  
11 judges determine appropriate.

12           “(2) AUTHORIZATION.—A court established  
13 under subsection (a) or (b), consistent with the re-  
14 quirement of subsection (c) and any other statutory  
15 requirement that the court act expeditiously or with-  
16 in a stated time—

17           “(A) shall appoint an individual who has  
18 been designated under paragraph (1) to serve  
19 as amicus curiae to assist such court in the  
20 consideration of any application for an order or  
21 review that, in the opinion of the court, pre-  
22 sents a novel or significant interpretation of the  
23 law, unless the court issues a finding that such  
24 appointment is not appropriate; and

1           “(B) may appoint an individual or organi-  
2           zation to serve as amicus curiae, including to  
3           provide technical expertise, in any instance as  
4           such court deems appropriate or, upon motion,  
5           permit an individual or organization leave to  
6           file an amicus curiae brief.

7           “(3) QUALIFICATIONS OF AMICUS CURIAE.—

8           “(A) EXPERTISE.—Individuals designated  
9           under paragraph (1) shall be persons who pos-  
10          sess expertise in privacy and civil liberties, in-  
11          telligence collection, communications tech-  
12          nology, or any other area that may lend legal  
13          or technical expertise to a court established  
14          under subsection (a) or (b).

15          “(B) SECURITY CLEARANCE.—Individuals  
16          designated pursuant to paragraph (1) shall be  
17          persons who are determined to be eligible for  
18          access to classified information necessary to  
19          participate in matters before the courts. Amicus  
20          curiae appointed by the court pursuant to para-  
21          graph (2) shall be persons who are determined  
22          to be eligible for access to classified informa-  
23          tion, if such access is necessary to participate  
24          in the matters in which they may be appointed.

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

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

7           “(B) information related to intelligence  
8 collection or communications technology; or

9           “(C) legal arguments or information re-  
10 garding any other area relevant to the issue  
11 presented to the court.

12           “(5) ASSISTANCE.—An amicus curiae appointed  
13 under paragraph (2)(A) may request that the court  
14 designate or appoint additional amici curiae pursu-  
15 ant to paragraph (1) or paragraph (2), to be avail-  
16 able to assist the amicus curiae.

17           “(6) ACCESS TO INFORMATION.—

18           “(A) IN GENERAL.—If a court established  
19 under subsection (a) or (b) appoints an amicus  
20 curiae under paragraph (2), the amicus cu-  
21 riae—

22           “(i) shall have access to any legal  
23 precedent, application, certification, peti-  
24 tion, motion, or such other materials that



1 the court determines are relevant to the  
2 duties of the amicus curiae; and

3 “(ii) may, if the court determines that  
4 it is relevant to the duties of the amicus  
5 curiae, consult with any other individuals  
6 designated pursuant to paragraph (1) re-  
7 garding information relevant to any as-  
8 signed proceeding.

9 “(B) BRIEFINGS.—The Attorney General  
10 may periodically brief or provide relevant mate-  
11 rials to individuals designated pursuant to para-  
12 graph (1) regarding constructions and interpre-  
13 tations of this Act and legal, technological, and  
14 other issues related to actions authorized by  
15 this Act.

16 “(C) CLASSIFIED INFORMATION.—An ami-  
17 cus curiae designated or appointed by the court  
18 may have access to classified documents, infor-  
19 mation, and other materials or proceedings only  
20 if that individual is eligible for access to classi-  
21 fied information and to the extent consistent  
22 with the national security of the United States.

23 “(D) RULE OF CONSTRUCTION.—Nothing  
24 in this section shall be construed to require the  
25 Government to provide information to an ami-

1           cus curiae appointed by the court that is privi-  
2           leged from disclosure.

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

8           “(8) ASSISTANCE.—A court established under  
9           subsection (a) or (b) may request and receive (in-  
10          cluding on a nonreimbursable basis) the assistance  
11          of the executive branch in the implementation of this  
12          subsection.

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

20          “(10) RECEIPT OF INFORMATION.—Nothing in  
21          this subsection shall limit the ability of a court es-  
22          tablished under subsection (a) or (b) to request or  
23          receive information or materials from, or otherwise  
24          communicate with, the Government or amicus curiae  
25          appointed under paragraph (2) on an ex parte basis,

1 nor limit any special or heightened obligation in any  
2 ex parte communication or proceeding.

3 “(j) REVIEW OF FISA COURT DECISIONS.—Fol-  
4 lowing issuance of an order under this Act, a court estab-  
5 lished under subsection (a) shall certify for review to the  
6 court established under subsection (b) any question of law  
7 that may affect resolution of the matter in controversy  
8 that the court determines warrants such review because  
9 of a need for uniformity or because consideration by the  
10 court established under subsection (b) would serve the in-  
11 terests of justice. Upon certification of a question of law  
12 under this subsection, the court established under sub-  
13 section (b) may give binding instructions or require the  
14 entire record to be sent up for decision of the entire matter  
15 in controversy.

16 “(k) REVIEW OF FISA COURT OF REVIEW DECI-  
17 SIONS.—

18 “(1) CERTIFICATION.—For purposes of section  
19 1254(2) of title 28, United States Code, the court  
20 of review established under subsection (b) shall be  
21 considered to be a court of appeals.

22 “(2) AMICUS CURIAE BRIEFING.—Upon certifi-  
23 cation of an application under paragraph (1), the  
24 Supreme Court of the United States may appoint an  
25 amicus curiae designated under subsection (i)(1), or

1 any other person, to provide briefing or other assist-  
2 ance.”.

3 **SEC. 402. DECLASSIFICATION OF DECISIONS, ORDERS, AND**  
4 **OPINIONS.**

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

7 (1) in the heading, by striking “**REPORT-**  
8 **ING REQUIREMENT**” and inserting “**OVER-**  
9 **SIGHT**”; and

10 (2) by adding at the end the following new sec-  
11 tion:

12 **“SEC. 602. DECLASSIFICATION OF SIGNIFICANT DECISIONS,**  
13 **ORDERS, AND OPINIONS.**

14 “(a) DECLASSIFICATION REQUIRED.—Subject to  
15 subsection (b), the Director of National Intelligence, in  
16 consultation with the Attorney General, shall conduct a  
17 declassification review of each decision, order, or opinion  
18 issued by the Foreign Intelligence Surveillance Court or  
19 the Foreign Intelligence Surveillance Court of Review (as  
20 defined in section 601(e)) that includes a significant con-  
21 struction or interpretation of any provision of law, includ-  
22 ing any novel or significant construction or interpretation  
23 of the term ‘specific selection term’, and, consistent with  
24 that review, make publicly available to the greatest extent  
25 practicable each such decision, order, or opinion.

1       “(b) REDACTED FORM.—The Director of National  
2 Intelligence, in consultation with the Attorney General,  
3 may satisfy the requirement under subsection (a) to make  
4 a decision, order, or opinion described in such subsection  
5 publicly available to the greatest extent practicable by  
6 making such decision, order, or opinion publicly available  
7 in redacted form.

8       “(c) NATIONAL SECURITY WAIVER.—The Director of  
9 National Intelligence, in consultation with the Attorney  
10 General, may waive the requirement to declassify and  
11 make publicly available a particular decision, order, or  
12 opinion under subsection (a), if—

13               “(1) the Director of National Intelligence, in  
14 consultation with the Attorney General, determines  
15 that a waiver of such requirement is necessary to  
16 protect the national security of the United States or  
17 properly classified intelligence sources or methods;  
18 and

19               “(2) the Director of National Intelligence  
20 makes publicly available an unclassified statement  
21 prepared by the Attorney General, in consultation  
22 with the Director of National Intelligence—

23                       “(A) summarizing the significant construc-  
24 tion or interpretation of any provision of law,  
25 which shall include, to the extent consistent

1 with national security, a description of the con-  
 2 text in which the matter arises and any signifi-  
 3 cant construction or interpretation of any stat-  
 4 ute, constitutional provision, or other legal au-  
 5 thority relied on by the decision; and

6 “(B) that specifies that the statement has  
 7 been prepared by the Attorney General and  
 8 constitutes no part of the opinion of the For-  
 9 eign Intelligence Surveillance Court or the For-  
 10 eign Intelligence Surveillance Court of Re-  
 11 view.”.

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

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

“TITLE VI—OVERSIGHT”;

16 and

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

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

19 **TITLE V—NATIONAL SECURITY**  
 20 **LETTER REFORM**

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

22 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE  
 23 TOLL AND TRANSACTIONAL RECORDS.—Section 2709(b)  
 24 of title 18, United States Code, is amended in the matter

1 preceding paragraph (1) by striking “may” and inserting  
2 “may, using a term that specifically identifies a person,  
3 entity, telephone number, or account as the basis for a  
4 request”.

5 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN  
6 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section  
7 1114(a)(2) of the Right to Financial Privacy Act of 1978  
8 (12 U.S.C. 3414(a)(2)) is amended by striking the period  
9 and inserting “and a term that specifically identifies a cus-  
10 tomer, entity, or account to be used as the basis for the  
11 production and disclosure of financial records.”.

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

16 (1) in subsection (a), by striking “that informa-  
17 tion,” and inserting “that information that includes  
18 a term that specifically identifies a consumer or ac-  
19 count to be used as the basis for the production of  
20 that information,”;

21 (2) in subsection (b), by striking “written re-  
22 quest,” and inserting “written request that includes  
23 a term that specifically identifies a consumer or ac-  
24 count to be used as the basis for the production of  
25 that information,”; and

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

5           (d) DISCLOSURES TO GOVERNMENTAL AGENCIES  
6 FOR COUNTERTERRORISM PURPOSES OF CONSUMER RE-  
7 PORTS.—Section 627(a) of the Fair Credit Reporting Act  
8 (15 U.S.C. 1681v(a)) is amended by striking “analysis.”  
9 and inserting “analysis and that includes a term that spe-  
10 cifically identifies a consumer or account to be used as  
11 the basis for the production of such information.”.

12 **SEC. 502. LIMITATIONS ON DISCLOSURE OF NATIONAL SE-**  
13 **CURITY LETTERS.**

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

18           “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

19                   “(1) PROHIBITION.—

20                           “(A) IN GENERAL.—If a certification is  
21                           issued under subparagraph (B) and notice of  
22                           the right to judicial review under subsection (d)  
23                           is provided, no wire or electronic communica-  
24                           tion service provider that receives a request  
25                           under subsection (b), or officer, employee, or



1 agent thereof, shall disclose to any person that  
2 the Federal Bureau of Investigation has sought  
3 or obtained access to information or records  
4 under this section.

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

14 “(i) a danger to the national security  
15 of the United States;

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

19 “(iii) interference with diplomatic re-  
20 lations; or

21 “(iv) danger to the life or physical  
22 safety of any person.

23 “(2) EXCEPTION.—

24 “(A) IN GENERAL.—A wire or electronic  
25 communication service provider that receives a

1 request under subsection (b), or officer, em-  
2 ployee, or agent thereof, may disclose informa-  
3 tion otherwise subject to any applicable non-  
4 disclosure requirement to—

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

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

11 “(iii) other persons as permitted by  
12 the Director of the Federal Bureau of In-  
13 vestigation or the designee of the Director.

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

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

1           “(D) IDENTIFICATION OF DISCLOSURE RE-  
2           CIPIENTS.—At the request of the Director of  
3           the Federal Bureau of Investigation or the des-  
4           ignee of the Director, any person making or in-  
5           tending to make a disclosure under clause (i) or  
6           (iii) of subparagraph (A) shall identify to the  
7           Director or such designee the person to whom  
8           such disclosure will be made or to whom such  
9           disclosure was made prior to the request.”.

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

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

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

18          “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

19                 “(1) PROHIBITION.—

20                         “(A) IN GENERAL.—If a certification is  
21                         issued under subparagraph (B) and notice of  
22                         the right to judicial review under subsection (d)  
23                         is provided, no financial institution that receives  
24                         a request under subsection (a), or officer, em-  
25                         ployee, or agent thereof, shall disclose to any

1 person that the Federal Bureau of Investigation  
2 has sought or obtained access to information or  
3 records under subsection (a).

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

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

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

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

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

22 “(2) EXCEPTION.—

23 “(A) IN GENERAL.—A financial institution  
24 that receives a request under subsection (a), or  
25 officer, employee, or agent thereof, may disclose

1 information otherwise subject to any applicable  
2 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 Director of the Federal Bureau of In-  
11 vestigation or the designee of the Director.

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 is issued under subsection (a) 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 Director of

1 the Federal Bureau of Investigation or the des-  
2 ignee of the Director, any person making or in-  
3 tending to make a disclosure under clause (i) or  
4 (iii) of subparagraph (A) shall identify to the  
5 Director or such designee the person to whom  
6 such disclosure will be made or to whom such  
7 disclosure was made prior to the request.”.

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

12 “(d) PROHIBITION OF CERTAIN DISCLOSURE.—

13 “(1) PROHIBITION.—

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

1           “(B) CERTIFICATION.—The requirements  
2 of subparagraph (A) shall apply if the Director  
3 of the Federal Bureau of Investigation, or a  
4 designee of the Director whose rank shall be no  
5 lower than Deputy Assistant Director at Bu-  
6 reau headquarters or a Special Agent in Charge  
7 of a Bureau field office, certifies that the ab-  
8 sence of a prohibition of disclosure under this  
9 subsection may result in—

10                   “(i) a danger to the national security  
11 of the United States;

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

15                   “(iii) interference with diplomatic re-  
16 lations; or

17                   “(iv) danger to the life or physical  
18 safety of any person.

19           “(2) EXCEPTION.—

20                   “(A) IN GENERAL.—A consumer reporting  
21 agency that receives a request under subsection  
22 (a) or (b) or an order under subsection (c), or  
23 officer, employee, or agent thereof, may disclose  
24 information otherwise subject to any applicable  
25 nondisclosure requirement to—

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

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

7           “(iii) other persons as permitted by  
8           the Director of the Federal Bureau of In-  
9           vestigation or the designee of the Director.

10          “(B) APPLICATION.—A person to whom  
11          disclosure is made under subparagraph (A)  
12          shall be subject to the nondisclosure require-  
13          ments applicable to a person to whom a request  
14          under subsection (a) or (b) or an order under  
15          subsection (c) is issued in the same manner as  
16          the person to whom the request is issued.

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

22          “(D) IDENTIFICATION OF DISCLOSURE RE-  
23          CIPIENTS.—At the request of the Director of  
24          the Federal Bureau of Investigation or the des-  
25          ignee of the Director, any person making or in-



1           tending to make a disclosure under clause (i) or  
2           (iii) of subparagraph (A) shall identify to the  
3           Director or such designee the person to whom  
4           such disclosure will be made or to whom such  
5           disclosure was made prior to the request.”.

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

10          “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

11           “(1) PROHIBITION.—

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

22           “(B) CERTIFICATION.—The requirements  
23           of subparagraph (A) shall apply if the head of  
24           the government agency described in subsection  
25           (a), or a designee, certifies that the absence of

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

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

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

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

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

12 “(2) EXCEPTION.—

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

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

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

1           “(iii) other persons as permitted by  
2           the head of the government agency de-  
3           scribed in subsection (a) or a designee.

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

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

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

1           (e) INVESTIGATIONS OF PERSONS WITH ACCESS TO  
2 CLASSIFIED INFORMATION.—Section 802 of the National  
3 Security Act of 1947 (50 U.S.C. 3162) is amended by  
4 striking subsection (b) and inserting the following new  
5 subsection:

6           “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

7                   “(1) PROHIBITION.—

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

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

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

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

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

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

8           “(2) EXCEPTION.—

9           “(A) IN GENERAL.—A governmental or  
10          private entity that receives a request under sub-  
11          section (a), or officer, employee, or agent there-  
12          of, may disclose information otherwise subject  
13          to any applicable nondisclosure requirement  
14          to—

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

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

21               “(iii) other persons as permitted by  
22               the head of the authorized investigative  
23               agency described in subsection (a) or a  
24               designee.

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

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

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

23 (f) TERMINATION PROCEDURES.—

24           (1) IN GENERAL.—Not later than 180 days  
25 after the date of enactment of this Act, the Attorney

1 General shall adopt procedures with respect to non-  
2 disclosure requirements issued pursuant to section  
3 2709 of title 18, United States Code, section 626 or  
4 627 of the Fair Credit Reporting Act (15 U.S.C.  
5 1681u and 1681v), section 1114 of the Right to Fi-  
6 nancial Privacy Act (12 U.S.C. 3414), or section  
7 802 of the National Security Act of 1947 (50 U.S.C.  
8 3162), as amended by this Act, to require—

9 (A) the review at appropriate intervals of  
10 such a nondisclosure requirement to assess  
11 whether the facts supporting nondisclosure con-  
12 tinue to exist;

13 (B) the termination of such a nondisclo-  
14 sure requirement if the facts no longer support  
15 nondisclosure; and

16 (C) appropriate notice to the recipient of  
17 the national security letter, or officer, employee,  
18 or agent thereof, subject to the nondisclosure  
19 requirement, and the applicable court as appro-  
20 priate, that the nondisclosure requirement has  
21 been terminated.

22 (2) REPORTING.—Upon adopting the proce-  
23 dures required under paragraph (1), the Attorney  
24 General shall submit the procedures to the Com-  
25 mittee on the Judiciary of the Senate and the Com-

1       mittee on the Judiciary of the House of Representa-  
2       tives.

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

6       “(b) NONDISCLOSURE.—

7             “(1) IN GENERAL.—

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

21                    “(B) APPLICATION.—Not later than 30  
22                    days after the date of receipt of a notification  
23                    under subparagraph (A), the Government shall  
24                    apply for an order prohibiting the disclosure of  
25                    the existence or contents of the relevant request



1 or order. An application under this subpara-  
2 graph may be filed in the district court of the  
3 United States for the judicial district in which  
4 the recipient of the order is doing business or  
5 in the district court of the United States for  
6 any judicial district within which the authorized  
7 investigation that is the basis for the request is  
8 being conducted. The applicable nondisclosure  
9 requirement shall remain in effect during the  
10 pendency of proceedings relating to the require-  
11 ment.

12 “(C) CONSIDERATION.—A district court of  
13 the United States that receives a petition under  
14 subparagraph (A) or an application under sub-  
15 paragraph (B) should rule expeditiously, and  
16 shall, subject to paragraph (3), issue a non-  
17 disclosure order that includes conditions appro-  
18 priate to the circumstances.

19 “(2) APPLICATION CONTENTS.—An application  
20 for a nondisclosure order or extension thereof or a  
21 response to a petition filed under paragraph (1)  
22 shall include a certification from the Attorney Gen-  
23 eral, Deputy Attorney General, an Assistant Attor-  
24 ney General, or the Director of the Federal Bureau  
25 of Investigation, or a designee in a position not

1 lower than Deputy Assistant Director at Bureau  
2 headquarters or a Special Agent in Charge in a Bu-  
3 reau field office designated by the Director, or in the  
4 case of a request by a department, agency, or instru-  
5 mentality of the Federal Government other than the  
6 Department of Justice, the head or deputy head of  
7 the department, agency, or instrumentality, con-  
8 taining a statement of specific facts indicating that  
9 the absence of a prohibition of disclosure under this  
10 subsection may result in—

11 “(A) a danger to the national security of  
12 the United States;

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

15 “(C) interference with diplomatic relations;

16 or

17 “(D) danger to the life or physical safety  
18 of any person.

19 “(3) STANDARD.—A district court of the  
20 United States shall issue a nondisclosure order or  
21 extension thereof under this subsection if the court  
22 determines that there is reason to believe that disclo-  
23 sure of the information subject to the nondisclosure  
24 requirement during the applicable time period may  
25 result in—

1           “(A) a danger to the national security of  
2           the United States;

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

5           “(C) interference with diplomatic relations;

6           or

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

9   **SEC. 503. JUDICIAL REVIEW.**

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

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

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

17       “(d) JUDICIAL REVIEW.—

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

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

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

5 (1) by redesignating subsection (d) as sub-  
6 section (e); and

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

9 “(d) JUDICIAL REVIEW.—

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

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

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

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

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

25 “(e) JUDICIAL REVIEW.—

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

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

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

14                 (1) by redesignating subsections (d), (e), and  
15                 (f) as subsections (e), (f), and (g), respectively; and

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

18                 “(d) JUDICIAL REVIEW.—

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

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

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

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

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

11          “(c) JUDICIAL REVIEW.—

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

17           “(2) NOTICE.—A request under subsection (a)  
18           shall include notice of the availability of judicial re-  
19           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 Immi-  
10          gration 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           resentatives”.

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

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

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

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

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

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

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

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

23                 “(2) ‘device’ means:

24                         “(A) any nuclear explosive device; or

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

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

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

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

19          “(6) ‘nuclear facility’ means:

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

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

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

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

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

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

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

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

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

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

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

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

“2332i. Acts of nuclear terrorism.”.

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

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

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

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

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

8 (a) in subsection (a)—

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

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

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

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

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

24 (b) in subsection (b)—

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

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

5           (c) in subsection (c)—

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

9           (2) by striking paragraph (5);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

Passed the House of Representatives May 13, 2015.

Attest:

*Clerk.*

114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 2048**

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**AN ACT**

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