

resolution; which was considered and agreed to:

S. CON. RES. 51

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, September 1, or on Friday, September 2, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12 noon on Tuesday, September 6, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, September 2, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, September 6, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of July 29, 2005, the following reports of committees were submitted on August 31, 2005:

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 1295. A bill to amend the Indian Gaming Regulatory Act to provide for accountability and funding of the National Indian Gaming Commission (Rept. No. 109-122).

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 1250. A bill to reauthorize the Great Ape Conservation Act of 2000 (Rept. No. 109-123).

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 1339. A bill to reauthorize the Junior Duck Stamp Conservation and Design Program Act of 1994 (Rept. No. 109-124).

S. 1340. A bill to amend the Pittman-Robertson Wildlife Restoration Act to extend the date after which surplus funds in the wildlife restoration fund become available for apportionment (Rept. No. 109-125).

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 1415. A bill to amend the Lacey Act Amendments of 1981 to protect captive wildlife and make technical corrections (Rept. No. 109-126).

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

H.R. 1428. A bill to authorize appropriations for the National Fish and Wildlife Foundation, and for other purposes (Rept. No. 109-127).

By Mr. GRASSLEY, from the Committee on Finance:

Report to accompany S. 1307, a bill to implement the Dominican Republic-Central America-United States Free Trade Agreement (Rept. No. 109-128).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions:

Report to accompany S. 1317, a bill to provide for the collection and maintenance of

cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitable matched to donors of bone marrow and cord blood (Rept. No. 109-129).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 525. A bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness, and for other purposes (Rept. No. 109-130).

S. 1107. A bill to reauthorize the Head Start Act, and for other purposes (Rept. No. 109-131).

USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

On Friday, July 29, 2005, the Senate passed H.R. 3199, as amended, as follows:

S. 1389

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the “USA PATRIOT Improvement and Reauthorization Act of 2005”.

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

[Sec. 1. Short title; table of contents.

[Sec. 2. Patriot section 203; notice to court of disclosure of foreign intelligence information.

[Sec. 3. Patriot section 206; additional requirements for multipoint electronic surveillance under FISA.

[Sec. 4. Patriot section 207; duration of FISA surveillance of non-United States persons.

[Sec. 5. Patriot section 212; enhanced oversight of good-faith emergency disclosures.

[Sec. 6. Patriot section 213; limitations on delayed notice search warrants.

[Sec. 7. Patriot section 214; factual basis for pen register and trap and trace authority under FISA.

[Sec. 8. Patriot section 215; procedural protections for court orders to produce records and other items in intelligence investigations.

[Sec. 9. Patriot section 505; procedural protections for national security letters.

[Sec. 10. Sunset provisions.

[Sec. 11. Enhancement of sunshine provisions.

SECTION 2. PATRIOT SECTION 203; NOTICE TO COURT OF DISCLOSURE OF FOREIGN INTELLIGENCE INFORMATION.

[Section 2517 of title 18, United States Code, is amended by adding at the end the following:

[(9) Within a reasonable time after disclosure is made, pursuant to paragraph (6), (7), or (8), of the contents of any wire, oral, or electronic communication, an attorney for the Government must file, under seal, a notice with the judge that issued the order authorizing or approving the interception of such wire, oral, or electronic communication, stating that such contents or evidence was disclosed and the departments, agencies, or entities to which the disclosure was made.”.

SECTION 3. PATRIOT SECTION 206; ADDITIONAL REQUIREMENTS FOR MULTIPPOINT ELECTRONIC SURVEILLANCE UNDER FISA.

[(a) PARTICULARITY REQUIREMENT.—Section 105(c)(1)(A) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(1)(A)) is amended by inserting before the semicolon at the end the following: “, and if the nature and location of each of the facilities or places at which the surveillance will be directed is not known, and if the identity of the target is not known, the order shall include sufficient information to describe a specific target with particularity”.

[(b) ADDITIONAL DIRECTIONS.—Section 105(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)) is amended—

[(1) by striking “An order approving an electronic surveillance under this section shall—”;

[(2) in paragraph (1), by inserting before “specify” the following: “SPECIFICATIONS.—An order approving an electronic surveillance under this section shall”;

[(3) in paragraph 1)(F), by striking “; and” and inserting a period;

[(4) in paragraph (2), by inserting before “direct” the following: “DIRECTIONS.—An order approving an electronic surveillance under this section shall”;

[(5) by adding at the end the following:

[(3) SPECIAL DIRECTIONS FOR CERTAIN ORDERS.—An order approving an electronic surveillance under this section in circumstances where the nature and location of each of the facilities or places at which the surveillance will be directed is unknown shall direct the applicant to provide notice to the court within 10 days after the date on which surveillance begins to be directed at any new facility or place of—

[(A) the nature and location of each facility or place at which the electronic surveillance is directed;

[(B) the facts and circumstances relied upon by the applicant to justify the applicant’s belief that each facility or place at which the electronic surveillance is directed is being used, or is about to be used, by the target of the surveillance; and

[(C) a statement of any proposed minimization procedures that differ from those contained in the original application or order, that may be necessitated by a change in the facility or place at which the electronic surveillance is directed.”.

[(c) ENHANCED OVERSIGHT.—

[(1) REPORT TO CONGRESS.—Section 108(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)(1)) is amended by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “Senate Select Committee on Intelligence”.

[(2) MODIFICATION OF SEMIANNUAL REPORT REQUIREMENT ON ACTIVITIES UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—Paragraph (2) of section 108(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)) is amended to read as follows:

[(2) Each report under the first sentence of paragraph (1) shall include a description of—

[(A) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title where the nature and location of each facility or place at which the electronic surveillance will be directed is not known; and

[(B) each criminal case in which information acquired under this Act has been authorized for use at trial during the period covered by such report.”.

ISEC. 4. PATRIOT SECTION 207; DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS.

[(a) ELECTRONIC SURVEILLANCE ORDERS.—Section 105(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1805(e)) is amended—

[(1) in paragraph (1)(B), by striking “, as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”; and

[(2) in paragraph (2)(B), by striking “as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

[(b) PHYSICAL SEARCH ORDERS.—Section 304(d) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1824(d)) is amended—

[(1) in paragraph (1)(B), striking “as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”; and

[(2) in paragraph (2), striking “as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

[(c) PEN REGISTERS.—Section 402(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1842(e)) is amended by—

[(1) inserting after “90 days” the first place it appears the following: “, except that in cases where the applicant has certified that the information likely to be obtained is foreign intelligence information not concerning a United States person, an order issued under this section may be for a period not to exceed 1 year”; and

[(2) by inserting after “90 days” the second place it appears the following: “, except that in cases where the applicant has certified that the information likely to be obtained is foreign intelligence information not concerning a United States person, an extension of an order issued under this section may be for a period not to exceed 1 year”.

ISEC. 5. PATRIOT SECTION 212; ENHANCED OVERSIGHT OF GOOD-FAITH EMERGENCY DISCLOSURES.

[(a) ENHANCED OVERSIGHT.—Section 2702 of title 18, United States Code, is amended by adding at the end the following:

[(d) REPORTING OF EMERGENCY DISCLOSURES.—On an annual basis, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report containing—

[(1) the number of accounts from which the Department of Justice has received voluntary disclosures under subsection (b)(8); and

[(2) a summary of the basis for disclosure in those instances where—

[(A) voluntary disclosures under subsection (b)(8) were made to the Department of Justice; and

[(B) the investigation pertaining to those disclosures was closed without the filing of criminal charges.”.

[(b) TECHNICAL AMENDMENTS TO CONFORM COMMUNICATIONS AND CUSTOMER RECORDS EXCEPTIONS.—

[(1) VOLUNTARY DISCLOSURES.—Section 2702 of title 18, United States Code, is amended—

[(A) in subsection (b)(8)—

[(i) by striking “Federal, State, or local”; and

[(ii) by inserting “immediate” before “danger”; and

[(B) by striking subsection (c)(4) and inserting the following:

[(4) to a governmental entity, if the provider, in good faith, believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure without delay of the information.”.

[(2) DEFINITIONS.—Section 2711 of title 18, United States Code, is amended—

[(A) in paragraph (2), by striking “and” at the end;

[(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

[(C) by adding at the end the following:

[(4) the term ‘governmental entity’ means a department or agency of the United States or any State or political subdivision thereof.”.

ISEC. 6. PATRIOT SECTION 213; LIMITATIONS ON DELAYED NOTICE SEARCH WARRANTS.

[(a) GROUNDS FOR DELAY.—Section 3103a(b)(1) of title 18, United States Code, is amended by striking “may have an adverse result (as defined in section 2705);” and inserting “may—

[(A) endanger the life or physical safety of an individual;

[(B) result in flight from prosecution;

[(C) result in the destruction of or tampering with evidence;

[(D) result in intimidation of potential witnesses; or

[(E) otherwise seriously jeopardize an investigation.”.

[(b) LIMITATION ON REASONABLE PERIOD FOR DELAY.—Section 3103a(b)(3) of title 18, United States Code, is amended by—

[(1) inserting “on a date certain that is” before “within a reasonable period of its execution”; and

[(2) after “good cause shown” inserting “, subject to the condition that extensions should only be granted upon an updated showing of the need for further delay and that each additional delay should be limited to periods of 90 days or less, unless the facts of the case justify a longer period of delay”.

[(c) ENHANCED OVERSIGHT.—Section 3103a of title 18, United States Code, is amended by adding at the end the following:

[(c) REPORTS.—

[(1) REPORT BY JUDGE.—Not later than 30 days after the expiration of a warrant authorizing delayed notice (including any extension thereof) entered under this section, or the denial of such warrant (or request for extension), the issuing or denying judge shall report to the Administrative Office of the United States Courts—

[(A) the fact that a warrant was applied for;

[(B) the fact that the warrant or any extension thereof was granted as applied for, was modified, or was denied;

[(C) the period of delay in the giving of notice authorized by the warrant, and the number and duration of any extensions; and

[(D) the offense specified in the warrant or application.

[(2) REPORT BY ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—In April of each year, the Director of the Administrative Office of the United States Courts shall transmit to Congress a full and complete report—

[(A) concerning the number of applications for warrants and extensions of warrants authorizing delayed notice pursuant to this section, and the number of warrants and extensions granted or denied pursuant to this section during the preceding calendar year; and

[(B) that includes a summary and analysis of the data required to be filed with the Administrative Office by paragraph (1).

[(3) REGULATIONS.—The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General, is authorized to issue binding regulations dealing with the content and form of the reports required to be filed under paragraph (1).”.

ISEC. 7. PATRIOT SECTION 214; FACTUAL BASIS FOR PEN REGISTER AND TRAP AND TRACE AUTHORITY UNDER FISA.

[(a) FACTUAL BASIS FOR PEN REGISTERS AND TRAP AND TRACE DEVICES UNDER FISA.—

[(1) APPLICATION.—Section 402(c)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(c)(2)) is amended by striking “a certification by the applicant that” and

inserting “a statement of the facts relied upon by the applicant to justify the applicant’s belief that”.

[(2) ORDER.—Section 402(d)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(1)) is amended by striking “if the judge finds that” and all that follows and inserting “if the judge finds that the application includes sufficient facts to justify the belief that the information likely to be obtained is foreign intelligence information not concerning a United States person or is relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities and otherwise satisfies the requirements of this section.”.

[(b) RECORDS.—Section 402(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(2)) is amended—

[(1) in subparagraph (A)—

[(A) in clause (ii), by adding “and” at the end; and

[(B) in clause (iii), by striking the period at the end and inserting a semicolon; and

[(2) in subparagraph (B)(iii), by striking the period at the end and inserting “; and”; and

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

[(C) shall direct that, upon the request of the applicant, the provider of a wire or electronic communication service shall disclose to the Federal officer using the pen register or trap and trace device covered by the order—

“(i) in the case of the customer or subscriber using the service covered by the order (for the period specified by the order)—

[(I) the name of the customer or subscriber;

[(II) the address of the customer or subscriber;

[(III) the telephone or instrument number, or other subscriber number or identifier, of the customer or subscriber, including any temporarily assigned network address or associated routing or transmission information;

[(IV) the length of the provision of service by such provider to the customer or subscriber and the types of services utilized by the customer or subscriber;

[(V) in the case of a provider of local or long distance telephone service, any local or long distance telephone records of the customer or subscriber;

[(VI) if applicable, any records reflecting period of usage (or sessions) by the customer or subscriber; and

[(VII) any mechanisms and sources of payment for such service, including the number of any credit card or bank account utilized for payment for such service; and

[(ii) if available, with respect to any customer or subscriber of incoming or outgoing communications to or from the service covered by the order—

[(I) the name of such customer or subscriber;

[(II) the address of such customer or subscriber;

[(III) the telephone or instrument number, or other subscriber number or identifier, of such customer or subscriber, including any temporarily assigned network address or associated routing or transmission information; and

[(IV) the length of the provision of service by such provider to such customer or subscriber and the types of services utilized by such customer or subscriber.”.

[(c) ENHANCED OVERSIGHT.—Section 406 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1846) is amended—

[(1) in subsection (a), by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “of the Senate”; and

[(2) in subsection (b), by striking “On a semiannual basis” through “the preceding 6-month period” and inserting, “In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year”.

[SEC. 8. PATRIOT SECTION 215; PROCEDURAL PROTECTIONS FOR COURT ORDERS TO PRODUCE RECORDS AND OTHER ITEMS IN INTELLIGENCE INVESTIGATIONS.

[(a) Factual Basis for Requested Order.—

[(1) APPLICATION.—Section 501(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)) is amended by striking “shall specify that the records concerned are sought for” and inserting “shall include a statement of facts showing that there are reasonable grounds to believe that the records or other things sought are relevant to”.

[(2) ORDER.—Section 501(c)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)(1)) is amended by striking “if the judge finds that” and all that follows and inserting “if the judge finds that the statement of facts contained in the application establishes reasonable grounds to believe that the records or other things sought are relevant to an authorized investigation conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities, and the application meets the other requirements of this section.”.

[(b) ADDITIONAL PROTECTIONS.—Section 501(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)) is amended—

[(1) in paragraph (2), by inserting after “An order under this subsection” the following: “—

[(A) shall describe the tangible things concerned with sufficient particularity to permit them to be fairly identified;

[(B) shall prescribe a return date which will provide a reasonable period of time within which the tangible things can be assembled and made available;

[(C) shall provide clear and conspicuous notice of the principles and procedures set forth in subsections (d) and (f); and

[(D)”.

[(c) DIRECTOR APPROVAL FOR CERTAIN APPLICATIONS.—Section 501(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(a)) is amended—

[(1) in paragraph (1), by striking “The Director” and inserting “Except as provided in paragraph (3), the Director”; and

[(2) by adding at the end the following:

[(3) No application shall be made under this section for an order requiring the production of library circulation records, library patron lists, book sales records, book customer lists, firearms sales records, or medical records containing personally identifiable information without the prior written approval of the Director of the Federal Bureau of Investigation. The Director may delegate authority to approve such an application to the Deputy Director of the Federal Bureau of Investigation, but such authority may not be further delegated.”.

[(d) PROHIBITION ON DISCLOSURE.—Section 501(d) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(d)) is amended to read as follows:

[(d)(1) No person shall disclose to any other person that the Federal Bureau of Investigation has sought or obtained tangible things pursuant to an order under this section other than to—

[(A) those persons to whom such disclosure is necessary to comply with such order;

[(B) an attorney to obtain legal advice or assistance with respect to the production of things in response to the order; or

[(C) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

[(2)(A) Any person having received a disclosure under subparagraph (A), (B), or (C) of paragraph (1) shall be subject to the prohibitions on disclosure under that paragraph.

[(B) Any person making a further disclosure authorized by subparagraph (A), (B), or (C) of paragraph (1) shall notify the person to whom the disclosure is made of the prohibitions on disclosure under this subsection.

[(3) An order under this section shall notify, in writing, the person to whom the order is directed of the nondisclosure requirements under this subsection.”.

[(e) JUDICIAL REVIEW.—Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended by adding at the end the following:

[(f)(1)(A) Any person receiving an order to produce any tangible thing under this section may challenge the legality of that order by filing a petition in the court established under section 103(a).

[(B) That petition may be considered by any judge of the court.

[(C) The judge considering the petition may modify or set aside the order if the judge finds that the order does not meet the requirements of this section or is otherwise unlawful.

[(D) Any petition for review of a decision to affirm, modify, or set aside an order under this paragraph by the United States or any person receiving such order shall be sent to the court of review established under section 103(b), which shall have jurisdiction to consider such petitions.

[(E) The court of review shall immediately provide for the record a written statement of the reasons for its decision and, on petition of the United States or any person receiving such order for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

[(2)(A) Judicial proceedings under this subsection shall be concluded as expeditiously as possible.

[(B) The record of proceedings, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of National Intelligence.

[(3) All petitions under this subsection shall be filed under seal, and the court, upon the request of the Government, shall review any Government submission, which may include classified information, as well as the application of the Government and related materials, ex parte and in camera.”.

[(f) ENHANCED OVERSIGHT.—Section 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended—

[(1) in subsection (a), by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “of the Senate”; and

[(2) in subsection (b)—

[(A) by striking “On a semiannual basis” through “the preceding 6-month period” and inserting “In April of each year, the Attorney General shall transmit to the Congress a report setting forth with respect to the preceding calendar year”; and

[(B) in paragraph (1), by striking “and” at the end;

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

[(D) by adding at the end the following:

[(3) the total number of applications made for orders approving requests for the production of tangible things under section 501, and the total number of orders either granted, modified, or denied, when the application or order involved any of the following:

[(A) The production of tangible things from a library, as defined in section 213(2) of the Library Services and Technology Act (20 U.S.C. 9122(2)).

[(B) The production of tangible things from a person or entity primarily engaged in the sale, rental, or delivery of books, journals, magazines, or other similar forms of communication whether in print or digitally.

[(C) The production of records related to the purchase of a firearm, as defined in section 921(a)(3) of title 18, United States Code.

[(D) The production of health information, as defined in section 1171(4) of the Social Security Act (42 U.S.C. 1320d(4)).

[(E) The production of taxpayer return information, return, or return information, as defined in section 6103(b) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(b)).

[(c) Each report under subsection (b) shall be submitted in unclassified form, but may include a classified annex.

[(d) In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

[(1) the total number of applications made for orders approving requests for the production of tangible things under section 501; and

[(2) the total number of such orders either granted, modified, or denied.”.

[SEC. 9. PATRIOT SECTION 505; PROCEDURAL PROTECTIONS FOR NATIONAL SECURITY LETTERS.

[(a) IN GENERAL.—Section 2709(a) of title 18, United States Code, is amended—

[(1) by striking “A wire or electronic communication service provider” and inserting the following:

[(1) IN GENERAL.—A wire or electronic communication service provider”; and

[(2) by adding at the end the following:

[(2) JUDICIAL REVIEW.—A wire or electronic communication service provider who receives a request under subsection (b) may, at any time, seek a court order from an appropriate United States district court to modify or set aside the request. Any such motion shall state the grounds for challenging the request with particularity. The court may modify or set aside the request if compliance would be unreasonable or oppressive.”.

[(b) NONDISCLOSURE.—Section 2709(c) of title 18, United States Code, is amended—

[(1) by striking “No wire or electronic communication service provider” and inserting the following:

[(1) IN GENERAL.—No wire or electronic communication service provider”; and

[(2) by adding at the end the following:

[(2) JUDICIAL REVIEW.—A wire or electronic communication service provider who receives a request under subsection (b) may, at any time, seek a court order from an appropriate United States district court challenging the nondisclosure requirement under paragraph (1). Any such motion shall state the grounds for challenging the nondisclosure requirement with particularity.

[(3) STANDARD OF REVIEW.—The court may modify or set aside such a nondisclosure requirement if there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. In reviewing a

nondisclosure requirement, the certification by the Government that the disclosure may endanger the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the certification was made in bad faith.”

[(C) ENFORCEMENT OF NATIONAL SECURITY LETTERS.—Section 2709(a) of title 18, United States Code, as amended by subsection (b), is amended by adding at the end the following:

[(3) ENFORCEMENT OF REQUESTS.—The Attorney General may seek enforcement of a request under subsection (b) in an appropriate United States district court if a recipient refuses to comply with the request.”

[(d) DISCLOSURE OF INFORMATION.—

[(1) SECURE PROCEEDINGS.—Section 2709 of title 18, United States Code, as amended by subsections (b) and (c), is amended—

[(A) in subsection (a), by adding at the end the following:

[(4) SECURE PROCEEDINGS.—The disclosure of information in any proceedings under this subsection may be limited consistent with the requirements of the Classified Information Procedures Act (18 U.S.C. App.)”; and

[(B) in subsection (c), by adding at the end the following:

[(4) SECURE PROCEEDINGS.—The disclosure of information in any proceedings under this subsection may be limited consistent with the requirements of the Classified Information Procedures Act (18 U.S.C. App.)”.

[(2) DISCLOSURE TO NECESSARY PERSONS.—Section 2709(c)(1) of title 18, United States Code, as amended by subsection (b), is amended—

[(A) by inserting after “any person” the following: “, except for disclosure to an attorney to obtain legal advice regarding the request or to persons to whom disclosure is necessary in order to comply with the request.”; and

[(B) by adding at the end the following: “Any attorney or person whose assistance is necessary to comply with the request who is notified of the request also shall not disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.”

[(SEC. 10. SUNSET PROVISIONS.

[(a) MODIFICATION OF PATRIOT ACT SUNSET PROVISION.—Section 224(a) of the USA PATRIOT Act (18 U.S.C. 2510 note) is amended to read as follows:

[(a) IN GENERAL.—Except as provided in subsection (b), sections 206 and 215, and the amendments made by those sections, shall cease to have effect on December 31, 2009, and any provision of law amended or modified by such sections shall take effect on January 1, 2010, as in effect on the day before the effective date of this Act.”

[(b) EXTENSION OF SUNSET ON “LONE WOLF” PROVISION.—Subsection (b) of section 6001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 1801 note) is amended to read as follows:

[(b) SUNSET.—

[(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall cease to have effect on December 31, 2009.

[(2) SPECIAL RULE.—With respect to any particular foreign intelligence investigation that began before the date on which the amendment made by subsection (a) ceases to have effect, section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a), shall continue in effect.”

[(c) REPEAL OF SUNSET PROVISION RELATING TO SECTION 2332B AND THE MATERIAL SUPPORT SECTIONS OF TITLE 18, UNITED STATES CODE.—Section 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004

(Public Law 108-458; 118 Stat. 3762) is amended by striking subsection (g).

[(d) TECHNICAL AMENDMENT.—Section 1(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 is amended to read as follows:

[(a) SHORT TITLE.—This Act may be cited as the ‘Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001’ or the ‘USA PATRIOT Act.’”

[(SEC. 11. ENHANCEMENT OF SUNSHINE PROVISIONS.

[(a) RULES AND PROCEDURES FOR FISA COURTS.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following:

[(e)(1) The courts established pursuant to subsections (a) and (b) may establish such rules and procedures, and take such actions, as are reasonably necessary to administer their responsibilities under this Act.

[(2) The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded, and shall be transmitted to the following:

[(A) All of the judges on the court established pursuant to subsection (a).

[(B) All of the judges on the court of review established pursuant to subsection (b).

[(C) The Chief Justice of the United States.

[(D) The Committee on the Judiciary of the Senate.

[(E) The Select Committee on Intelligence of the Senate.

[(F) The Committee on the Judiciary of the House of Representatives.

[(G) The Permanent Select Committee on Intelligence of the House of Representatives.

[(3) The transmissions required by paragraph (2) shall be submitted in unclassified form, but may include a classified annex.”

[(b) ENHANCED CONGRESSIONAL OVERSIGHT OF FISA EMERGENCY AUTHORITIES.—

[(1) EMERGENCY ELECTRONIC SURVEILLANCE.—Section 107 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1807), is amended—

[(A) in paragraph (a), by striking “and” at the end;

[(B) in paragraph (b), by striking the period at the end and inserting “; and”; and

[(C) by adding at the end the following:

[(c) the total number of emergency employments of electronic surveillance under section 105(f) and the total number of subsequent orders approving or denying such electronic surveillance.”

[(2) EMERGENCY PHYSICAL SEARCHES.—Section 306 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1826) is amended—

[(A) in the first sentence, by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “the Senate”;

[(B) in the second sentence, by striking “and the Committees on the Judiciary of the House of Representatives and the Senate”;

[(C) in paragraph (2), by striking “and” at the end;

[(D) in paragraph (3), by striking the period at the end and inserting “; and”; and

[(E) by adding at the end the following:

[(4) the total number of emergency physical searches authorized by the Attorney General under section 304(e) (50 U.S.C. 1824(e)), and the total number of subsequent orders approving or denying such physical searches.”

[(3) EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 406(b) of the Foreign Intelligence Surveillance Act of 1978

(50 U.S.C. 1846(b)), as amended by section 7, is amended—

[(A) in paragraph (1), by striking “and” at the end;

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

[(C) by adding at the end the following:

[(3) the total number of pen registers and trap and trace devices whose installation and use was authorized by the Attorney General on an emergency basis under section 403, and the total number of subsequent orders approving or denying the installation and use of such pen registers and trap and trace devices.”]

[(SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the “USA PATRIOT Improvement and Reauthorization Act of 2005”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Patriot section 206; additional requirements for multipoint electronic surveillance under FISA.

Sec. 3. Patriot section 207; duration of FISA surveillance of non-United States persons.

Sec. 4. Patriot section 212; enhanced oversight of good-faith emergency disclosures.

Sec. 5. Patriot section 213; limitations on delayed notice search warrants.

Sec. 6. Patriot section 214; authority for disclosure of additional information in connection with orders for pen register and trap and trace authority under FISA.

Sec. 7. Patriot section 215; procedural protections for court orders to produce records and other items in intelligence investigations.

Sec. 8. Patriot section 505; procedural protections for national security letters.

Sec. 9. Sunset provisions.

Sec. 10. Enhancement of sunshine provisions.

[(SEC. 2. PATRIOT SECTION 206; ADDITIONAL REQUIREMENTS FOR MULTIPOINT ELECTRONIC SURVEILLANCE UNDER FISA.

[(a) PARTICULARITY REQUIREMENT.—Section 105(c)(1)(A) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(1)(A)) is amended by inserting before the semicolon at the end the following: “, and if the nature and location of each of the facilities or places at which the surveillance will be directed is not known, and if the identity of the target is not known, the order shall include sufficient information to describe a specific target with particularity”.

[(b) ADDITIONAL DIRECTIONS.—Section 105(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)) is amended—

(1) by striking “An order approving an electronic surveillance under this section shall—”;

(2) in paragraph (1), by inserting before “specify” the following: “SPECIFICATIONS.—An order approving an electronic surveillance under this section shall”;

(3) in paragraph (1)(F), by striking “; and” and inserting a period;

(4) in paragraph (2), by inserting before “direct” the following: “DIRECTIONS.—An order approving an electronic surveillance under this section shall”;

(5) by adding at the end the following:

“(3) SPECIAL DIRECTIONS FOR CERTAIN ORDERS.—An order approving an electronic surveillance under this section in circumstances where the nature and location of each of the facilities or places at which the surveillance will be directed is unknown shall direct the applicant to provide notice to the court within 10 days after the date on which surveillance begins to be directed at any new facility or place of—
“(A) the nature and location of each facility or place at which the electronic surveillance is directed;

“(B) the facts and circumstances relied upon by the applicant to justify the applicant’s belief that each facility or place at which the electronic surveillance is directed is being used, or is about to be used, by the target of the surveillance; and

“(C) a statement of any proposed minimization procedures that differ from those contained in the original application or order, that may be necessitated by a change in the facility or place at which the electronic surveillance is directed.”.

(c) ENHANCED OVERSIGHT.—

(1) REPORT TO CONGRESS.—Section 108(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)(1)) is amended by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “Senate Select Committee on Intelligence”.

(2) MODIFICATION OF SEMIANNUAL REPORT REQUIREMENT ON ACTIVITIES UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—Paragraph (2) of section 108(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)) is amended to read as follows:

“(2) Each report under the first sentence of paragraph (1) shall include a description of—

“(A) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title where the nature and location of each facility or place at which the electronic surveillance will be directed is not known; and

“(B) Each criminal case in which information acquired under this Act has been authorized for use at trial during the period covered by such report.”.

SEC. 3. PATRIOT SECTION 207; DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS.

(a) ELECTRONIC SURVEILLANCE ORDERS.—Section 105(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1805(e)) is amended—

(1) in paragraph (1)(B), by striking “, as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”; and

(2) in paragraph (2)(B), by striking “as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

(b) PHYSICAL SEARCH ORDERS.—Section 304(d) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1824(d)) is amended—

(1) in paragraph (1)(B), striking “as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”; and

(2) in paragraph (2), striking “as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

(c) PEN REGISTERS.—Section 402(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1842(e)) is amended by—

(1) inserting after “90 days” the first place it appears the following: “, except that in cases where the applicant has certified that the information likely to be obtained is foreign intelligence information not concerning a United States person, an order issued under this section may be for a period not to exceed 1 year”; and

(2) inserting after “90 days” the second place it appears the following: “, except that in cases where the applicant has certified that the information likely to be obtained is foreign intelligence information not concerning a United States person, an extension of an order issued under this section may be for a period not to exceed 1 year”.

SEC. 4. PATRIOT SECTION 212; ENHANCED OVERSIGHT OF GOOD-FAITH EMERGENCY DISCLOSURES.

(a) ENHANCED OVERSIGHT.—Section 2702 of title 18, United States Code, is amended by adding at the end the following:

“(d) REPORTING OF EMERGENCY DISCLOSURES.—On an annual basis, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report containing—

“(1) the number of accounts from which the Department of Justice has received voluntary disclosures under subsection (b)(8); and

“(2) a summary of the basis for disclosure in those instances where—

“(A) voluntary disclosures under subsection (b)(8) were made to the Department of Justice; and

“(B) the investigation pertaining to those disclosures was closed without the filing of criminal charges.”.

(b) TECHNICAL AMENDMENTS TO CONFORM COMMUNICATIONS AND CUSTOMER RECORDS EXCEPTIONS.—

(1) VOLUNTARY DISCLOSURES.—Section 2702 of title 18, United States Code, is amended—

(A) in subsection (b)(8), by striking “Federal, State, or local”; and

(B) by striking subsection (c)(4) and inserting the following:

“(4) to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of the information.”.

(2) DEFINITIONS.—Section 2711 of title 18, United States Code, is amended—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) the term ‘governmental entity’ means a department or agency of the United States or any State or political subdivision thereof.”.

SEC. 5. PATRIOT SECTION 213; LIMITATIONS ON DELAYED NOTICE SEARCH WARRANTS.

(a) GROUNDS FOR DELAY.—Section 3103a(b)(1) of title 18, United States Code, is amended by striking “may have an adverse result (as defined in section 2705);” and inserting “may—

“(A) endanger the life or physical safety of an individual;

“(B) result in flight from prosecution;

“(C) result in the destruction of or tampering with evidence;

“(D) result in intimidation of potential witnesses; or

“(E) otherwise seriously jeopardize an investigation;”.

(b) LIMITATION ON REASONABLE PERIOD FOR DELAY.—Section 3103a of title 18, United States Code, is amended—

(1) by striking subsection (b)(3) and inserting the following:

“(3) the warrant provides for the giving of such notice not later than 7 days after the date of its execution, or on a later date certain if the facts of the case justify a longer period of delay.”; and

(2) by adding at the end the following:

“(c) EXTENSIONS OF DELAY.—Any period of delay authorized by this section may be extended by the court for good cause shown, subject to the condition that extensions should only be granted upon an updated showing of the need for further delay and that each additional delay should be limited to periods of 90 days or less, unless the facts of the case justify a longer period of delay.”.

(c) ENHANCED OVERSIGHT.—Section 3103a of title 18, United States Code, is amended by adding at the end the following:

“(c) REPORTS.—

“(1) REPORT BY JUDGE.—Not later than 30 days after the expiration of a warrant authorizing delayed notice (including any extension thereof) entered under this section, or the denial of such warrant (or request for extension), the issuing or denying judge shall report to the Administrative Office of the United States Courts—

“(A) the fact that a warrant was applied for;

“(B) the fact that the warrant or any extension thereof was granted as applied for, was modified, or was denied;

“(C) the period of delay in the giving of notice authorized by the warrant, and the number and duration of any extensions; and

“(D) the offense specified in the warrant or application.

“(2) REPORT BY ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—In April of each year, the Director of the Administrative Office of the United States Courts shall transmit to Congress a full and complete report—

“(A) concerning the number of applications for warrants and extensions of warrants authorizing delayed notice pursuant to this section, and the number of warrants and extensions granted or denied pursuant to this section during the preceding calendar year; and

“(B) that includes a summary and analysis of the data required to be filed with the Administrative Office by paragraph (1).

“(3) REGULATIONS.—The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General, is authorized to issue binding regulations dealing with the content and form of the reports required to be filed under paragraph (1).”.

SEC. 6. PATRIOT SECTION 214; AUTHORITY FOR DISCLOSURE OF ADDITIONAL INFORMATION IN CONNECTION WITH ORDERS FOR PEN REGISTER AND TRAP AND TRACE AUTHORITY UNDER FISA.

(a) RECORDS.—Section 402(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (ii), by adding “and” at the end; and

(B) in clause (iii), by striking the period at the end and inserting a semicolon; and

(2) in subparagraph (B)(iii), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(C) shall direct that, upon the request of the applicant, the provider of a wire or electronic communication service shall disclose to the Federal officer using the pen register or trap and trace device covered by the order—

“(i) in the case of the customer or subscriber using the service covered by the order (for the period specified by the order)—

“(I) the name of the customer or subscriber;

“(II) the address of the customer or subscriber;

“(III) the telephone or instrument number, or other subscriber number or identifier, of the customer or subscriber, including any temporarily assigned network address or associated routing or transmission information;

“(IV) the length of the provision of service by such provider to the customer or subscriber and the types of services utilized by the customer or subscriber;

“(V) in the case of a provider of local or long distance telephone service, any local or long distance telephone records of the customer or subscriber;

“(VI) if applicable, any records reflecting period of usage (or sessions) by the customer or subscriber; and

“(VII) any mechanisms and sources of payment for such service, including the number of any credit card or bank account utilized for payment for such service; and

“(ii) if available, with respect to any customer or subscriber of incoming or outgoing communications to or from the service covered by the order—

“(I) the name of such customer or subscriber;

“(II) the address of such customer or subscriber;

“(III) the telephone or instrument number, or other subscriber number or identifier, of such customer or subscriber, including any temporarily assigned network address or associated routing or transmission information; and

“(IV) the length of the provision of service by such provider to such customer or subscriber and the types of services utilized by such customer or subscriber.”.

(b) ENHANCED OVERSIGHT.—Section 406(a) of the Foreign Intelligence Surveillance Act of 1978

(50 U.S.C. 1846(a)) is amended by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “of the Senate”.

SEC. 7. PATRIOT SECTION 215; PROCEDURAL PROTECTIONS FOR COURT ORDERS TO PRODUCE RECORDS AND OTHER ITEMS IN INTELLIGENCE INVESTIGATIONS.

(a) **FACTUAL BASIS FOR REQUESTED ORDER.**—

(1) **APPLICATION.**—Section 501(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)) is amended to read as follows:

“(2) shall include a statement of facts showing that there are reasonable grounds to believe that the records or other things sought—

“(A) are relevant to an authorized investigation conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities; and

“(B)(i) pertain to a foreign power or an agent of a foreign power;

“(ii) are relevant to the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

“(iii) pertain to an individual in contact with, or known to, a suspected agent of a foreign power.”.

(2) **ORDER.**—Section 501(c)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)(1)) is amended to read as follows:

“(c)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records or tangible things if the judge finds that—

“(A) the statement of facts contained in the application establishes reasonable grounds to believe that the records or other things sought are relevant to an authorized investigation conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities;

“(B) the statement of facts contained in the application establishes reasonable grounds to believe that the records or other things sought—

“(i) pertain to a foreign power or an agent of a foreign power;

“(ii) are relevant to the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

“(iii) pertain to an individual in contact with, or known to, a suspected agent of a foreign power; and

“(C) the application meets the other requirements of this section.”.

(b) **ADDITIONAL PROTECTIONS.**—Section 501(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)) is amended—

(1) in paragraph (2), by inserting after “An order under this subsection” the following:

“(A) shall describe the tangible things concerned with sufficient particularity to permit them to be fairly identified;

“(B) shall prescribe a return date which will provide a reasonable period of time within which the tangible things can be assembled and made available;

“(C) shall provide clear and conspicuous notice of the principles and procedures set forth in subsection (d);

“(D) shall not require the production of anything that would be protected from production under the standards applicable to a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation; and

“(E)”.

(c) **DIRECTOR APPROVAL FOR CERTAIN APPLICATIONS.**—Section 501(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(a)) is amended—

(1) in paragraph (1), by striking “The Director” and inserting “Except as provided in paragraph (3), the Director”; and

(2) by adding at the end the following:

“(3) No application shall be made under this section for an order requiring the production of library circulation records, library patron lists, book sales records, book customer lists, firearms sales records, or medical records containing personally identifiable information without the prior written approval of the Director of the Federal Bureau of Investigation. The Director may delegate authority to approve such an application to the Deputy Director of the Federal Bureau of Investigation, but such authority may not be further delegated.”.

(d) **PROHIBITION ON DISCLOSURE.**—Section 501(d) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(d)) is amended to read as follows:

“(d)(1) No person shall disclose to any other person that the Federal Bureau of Investigation has sought or obtained tangible things pursuant to an order under this section other than to

“(A) those persons to whom such disclosure is necessary to comply with such order;

“(B) an attorney to obtain legal advice or assistance with respect to the production of things in response to the order; or

“(C) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

“(2)(A) Any person having received a disclosure under subparagraph (A), (B), or (C) of paragraph (1) shall be subject to the prohibitions on disclosure under that paragraph.

“(B) Any person making a further disclosure authorized by subparagraph (A), (B), or (C) of paragraph (1) shall notify the person to whom the disclosure is made of the prohibitions on disclosure under this subsection.

“(3) An order under this section shall notify, in writing, the person to whom the order is directed of the nondisclosure requirements under this subsection.”.

(e) **JUDICIAL REVIEW.**—Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended by adding at the end the following:

“(f)(1)(A) Any person receiving an order to produce any tangible thing under this section may challenge the legality of that order, including any prohibition on disclosure, by filing a petition in the court established under section 103(a).

“(B) That petition may be considered by any judge of the court.

“(C) The judge considering the petition may modify or set aside the order if the judge finds that the order does not meet the requirements of this section or is otherwise unlawful.

“(D) Any petition for review of a decision to affirm, modify, or set aside an order or prohibition on disclosure under this paragraph by the United States or any person receiving such order shall be sent to the court of review established under section 103(b), which shall have jurisdiction to consider such petitions.

“(E) The court of review shall immediately provide for the record a written statement of the reasons for its decision and, on petition of the United States or any person receiving such order for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

“(2)(A) Judicial proceedings under this subsection shall be concluded as expeditiously as possible.

“(B) The record of proceedings, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of National Intelligence.

“(3) All petitions under this subsection shall be filed under seal, and the court, upon the request of the Government, shall review any Government submission, which may include classified information, as well as the application of the Government and related materials, ex parte and in camera.

“(4) Not later than 60 days after the date of enactment of the USA PATRIOT Improvement and Reauthorization Act of 2005, the court established under section 103(a) shall develop and issue procedures for the review of petitions filed under paragraph (1).”.

(f) **ENHANCED OVERSIGHT.**—Section 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended

(1) in subsection (a), by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “of the Senate”; and

(2) in subsection (b)—

(A) by striking “On a semiannual basis” through “the preceding 6-month period” and inserting “In April of each year, the Attorney General shall transmit to the Congress a report setting forth with respect to the preceding calendar year”; and

(B) in paragraph (1), by striking “and” at the end;

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

(D) by adding at the end the following:

“(3) the total number of applications made for orders approving requests for the production of tangible things under section 501, and the total number of orders either granted, modified, or denied, when the application or order involved any of the following:

“(A) The production of tangible things from a library, as defined in section 213(2) of the Library Services and Technology Act (20 U.S.C. 9122(2)).

“(B) The production of tangible things from a person or entity primarily engaged in the sale, rental, or delivery of books, journals, magazines, or other similar forms of communication whether in print or digitally.

“(C) The production of records related to the purchase of a firearm, as defined in section 921(a)(3) of title 18, United States Code.

“(D) The production of health information, as defined in section 1171(4) of the Social Security Act (42 U.S.C. 1320d(4)).

“(E) The production of taxpayer return information, return, or return information, as defined in section 6103(b) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(b)).

“(c) Each report under subsection (b) shall be submitted in unclassified form, but may include a classified annex.

“(d) In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

“(1) the total number of applications made for orders approving requests for the production of tangible things under section 501; and

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

SEC. 8. PATRIOT SECTION 505; PROCEDURAL PROTECTIONS FOR NATIONAL SECURITY LETTERS.

(a) **IN GENERAL.**—Section 2709(a) of title 18, United States Code, is amended—

(1) by striking “A wire or electronic communication service provider” and inserting the following:

“(1) **IN GENERAL.**—A wire or electronic communication service provider”; and

(2) by adding at the end the following:

“(2) **JUDICIAL REVIEW.**—A wire or electronic communication service provider who receives a request under subsection (b) may, at any time, seek a court order from an appropriate United States district court to modify or set aside the request. Any such motion shall state the grounds for challenging the request with particularity. The court may modify or set aside the request if compliance would be unreasonable or oppressive or would violate any constitutional or other legal right or privilege of the petitioner.”.

(b) **NONDISCLOSURE.**—Section 2709(c) of title 18, United States Code, is amended—

(1) by striking “No wire or electronic communication service provider” and inserting the following:

“(1) **IN GENERAL.**—No wire or electronic communication service provider”; and

(2) by adding at the end the following:

“(3) **JUDICIAL REVIEW.**—A wire or electronic communication service provider who receives a request under subsection (b) may, at any time, seek a court order from an appropriate United States district court challenging the nondisclosure requirement under paragraph (1). Any such motion shall state the grounds for challenging the nondisclosure requirement with particularity.

“(4) **STANDARD OF REVIEW.**—The court may modify or set aside such a nondisclosure requirement if there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. In reviewing a nondisclosure requirement, the certification by the Government that the disclosure may endanger the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the certification was made in bad faith.”

(c) **ENFORCEMENT OF NATIONAL SECURITY LETTERS.**—Section 2709(a) of title 18, United States Code, as amended by subsection (b), is amended by adding at the end the following:

“(3) **ENFORCEMENT OF REQUESTS.**—The Attorney General may seek enforcement of a request under subsection (b) in an appropriate United States district court if a recipient refuses to comply with the request.”

(d) **DISCLOSURE OF INFORMATION.**—

(1) **SECURE PROCEEDINGS.**—Section 2709 of title 18, United States Code, as amended by subsections (b) and (c), is amended—

(A) in subsection (a), by adding at the end the following:

“(4) **SECURE PROCEEDINGS.**—The disclosure of information in any proceedings under this subsection may be limited consistent with the requirements of the Classified Information Procedures Act (18 U.S.C. App)”; and

(B) in subsection (c), by adding at the end the following:

“(4) **SECURE PROCEEDINGS.**—The disclosure of information in any proceedings under this subsection may be limited consistent with the requirements of the Classified Information Procedures Act (18 U.S.C. App).”

(2) **DISCLOSURE TO NECESSARY PERSONS.**—Section 2709(c)(1) of title 18, United States Code, as amended by subsection (b), is amended—

(A) by inserting after “any person” the following: “, except for disclosure to an attorney to obtain legal advice regarding the request or to persons to whom disclosure is necessary in order to comply with the request,”; and

(B) by adding at the end the following: “Any attorney or person whose assistance is necessary to comply with the request who is notified of the request also shall not disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.”

SEC. 9. SUNSET PROVISIONS.

(a) **MODIFICATION OF PATRIOT ACT SUNSET PROVISION.**—Section 224(a) of the USA PATRIOT Act (18 U.S.C. 2510 note) is amended to read as follows:

“(a) **IN GENERAL.**—Except as provided in subsection (b), sections 206 and 215, and the amendments made by those sections, shall cease to have effect on December 31, 2009, and any provision of law amended or modified by such sections shall take effect on January 1, 2010, as in effect on the day before the effective date of this Act.”

(b) **EXTENSION OF SUNSET ON “LONE WOLF” PROVISION.**—Subsection (b) of section 6001 of the

Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 1801 note) is amended to read as follows:

“(b) **SUNSET.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendment made by subsection (a) shall cease to have effect on December 31, 2009.

“(2) **SPECIAL RULE.**—With respect to any particular foreign intelligence investigation that began before the date on which the amendment made by subsection (a) ceases to have effect, section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a), shall continue in effect.”

(c) **REPEAL OF SUNSET PROVISION RELATING TO SECTION 2332B AND THE MATERIAL SUPPORT SECTIONS OF TITLE 18, UNITED STATES CODE.**—Section 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3762) is amended by striking subsection (g).

(d) **TECHNICAL AMENDMENT.**—Section 1(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 is amended to read as follows:

“(a) **SHORT TITLE.**—This Act may be cited as the ‘Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001’ or the ‘USA PATRIOT Act’.”

SEC. 10. ENHANCEMENT OF SUNSHINE PROVISIONS.

(a) **RULES AND PROCEDURES FOR FISA COURTS.**—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following:

“(e)(1) The courts established pursuant to subsections (a) and (b) may establish such rules and procedures, and take such actions, as are reasonably necessary to administer their responsibilities under this Act.

“(2) The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded, and shall be transmitted to the following:

“(A) All of the judges on the court established pursuant to subsection (a).

“(B) All of the judges on the court of review established pursuant to subsection (b).

“(C) The Chief Justice of the United States.

“(D) The Committee on the Judiciary of the Senate.

“(E) The Select Committee on Intelligence of the Senate.

“(F) The Committee on the Judiciary of the House of Representatives.

“(G) The Permanent Select Committee on Intelligence of the House of Representatives.

“(3) The transmissions required by paragraph (2) shall be submitted in unclassified form, but may include a classified annex.”

(b) **ENHANCED CONGRESSIONAL OVERSIGHT OF FISA EMERGENCY AUTHORITIES.**—

(1) **EMERGENCY ELECTRONIC SURVEILLANCE.**—Section 107 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1807), is amended—

(A) in paragraph (a), by striking “and” at the end;

(B) in paragraph (b), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(c) the total number of emergency employments of electronic surveillance under section 105(f) and the total number of subsequent orders approving or denying such electronic surveillance.”

(2) **EMERGENCY PHYSICAL SEARCHES.**—Section 306 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1826) is amended—

(A) in the first sentence, by inserting “, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,” after “the Senate”; and

(B) in the second sentence, by striking “and the Committees on the Judiciary of the House of Representatives and the Senate”;

(C) in paragraph (2), by striking “and” at the end;

(D) in paragraph (3), by striking the period at the end and inserting “; and”; and

(E) by adding at the end the following:

“(4) the total number of emergency physical searches authorized by the Attorney General under section 304(e) (50 U.S.C. 1824(e)), and the total number of subsequent orders approving or denying such physical searches.”

(3) **EMERGENCY PEN REGISTERS AND TRAP AND TRACE DEVICES.**—Section 406(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1846(b)) is amended—

(A) in paragraph (1), by striking “and” at the end;

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

(C) by adding at the end the following:

“(3) the total number of pen registers and trap and trace devices whose installation and use was authorized by the Attorney General on an emergency basis under section 403, and the total number of subsequent orders approving or denying the installation and use of such pen registers and trap and trace devices.”

AUTHORITY TO SIGN BILLS AND JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the majority leader, the senior Senator from Mississippi, and the senior Senator from New Mexico be authorized to sign duly enrolled bills or joint resolutions during this adjournment of the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of S. Con. Res. 51 until 12 noon on Tuesday, September 6, 2005, unless the House has not adopted S. Con. Res. 51, in which case the Senate shall stand adjourned until 4 p.m. on Friday, September 2, 2005.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I want to take this final opportunity to thank our colleagues for their assistance in getting this emergency funding considered so quickly. We will be returning to business on Tuesday, and we will be monitoring the situation in all of the affected States as we mentioned tonight—really a much larger region in fact, the whole country—over the next several days.

Our hearts, as has been spelled out and articulated so well by my colleagues, and especially our prayers, go out to the people of those States as we pull together and capture the best of what America represents; that is, the support of, in times of crisis, each other as a nation in order to get through these unanticipated, unprecedented challenges for us.