

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2891. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; which was ordered to lie on the table.

SA 2892. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, supra; which was ordered to lie on the table.

SA 2893. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, supra; which was ordered to lie on the table.

SA 2894. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, supra; which was ordered to lie on the table.

SA 2895. Mr. FRIST proposed an amendment to the bill S. 2271, supra.

SA 2896. Mr. FRIST proposed an amendment to amendment SA 2895 proposed by Mr. FRIST to the bill S. 2271, supra.

SA 2897. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2271, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 2891.** Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, after line 11, add the following:  
**SEC. 6. NATIONAL SECURITY LETTER SUNSET.**

Section 102(b) of the applicable Act is amended to read as follows:

“(b) SECTIONS 206, 215, AND 505 SUNSET.—

“(1) IN GENERAL.—Effective December 31, 2009, the following provisions are amended so that they read as they read on October 25, 2001:

“(A) Sections 105(c)(2), 501, and 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1802(c)(2), 1861, 1862).

“(B) Section 2709 of title 18, United States Code.

“(C) Sections 636 and 637 of the Fair Credit Reporting Act (15 U.S.C. 1681u, 1681v).

“(D) Section 1114(a)(5) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)).

“(2) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in paragraph (1) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect.”

**SA 2892.** Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an

amendment intended to be proposed by him to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, after line 11, add the following:  
**SEC. 6. FACTUAL BASIS FOR REQUESTED ORDER.**

Section 501(b)(2)(A) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)(A)), as amended by the applicable Act, is amended to read as follows:

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

“(i) 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

“(ii) either—

“(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”.

**SA 2893.** Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike line 9 and all that follows through page 6, line 2 and insert the following:

**SEC. 3. JUDICIAL REVIEW OF FISA ORDERS AND NATIONAL SECURITY LETTERS.**

(a) FISA.—Section 501(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861), as amended by the applicable Act, is amended by striking paragraphs (1) and (2) and inserting the following:

“(1)(A) A 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 with the pool established by section 103(e)(1).

“(B) The presiding judge shall immediately assign a petition submitted under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1).

“(C)(i) Not later than 72 hours after the assignment of a petition under subparagraph (B), the assigned judge shall conduct an initial review of the petition.

“(ii) If the assigned judge determines under clause (i) that—

“(I) the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the order; and

“(II) the petition is not frivolous, the assigned judge shall promptly consider the petition in accordance with the procedures established pursuant to section 103(e)(2).

“(D) The assigned judge may modify or set aside the order only if the judge finds that the order does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the order, the judge shall immediately affirm the order and order the recipient to comply therewith. The assigned judge shall promptly provide a written statement for the record of the reasons for any determination under this paragraph.

“(2) A petition for review of a decision to affirm, modify, or set aside an order, including any prohibition on disclosure, by the United States or any person receiving such order shall be to the court of review established under section 103(b), which shall have jurisdiction to consider such petitions. The court of review shall 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 writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.”

(b) JUDICIAL REVIEW OF NATIONAL SECURITY LETTERS.—Section 3511(b) of title 18, United States Code, as amended by the applicable Act, is amended—

(1) in paragraph (2), by striking “If, at the time of the petition,” and all that follows through the end of the paragraph; and

(2) in paragraph (3), by striking “If the recertification that disclosure may” and all that follows through “made in bad faith.”.

**SA 2894.** Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, after line 11, add the following:  
**SEC. 6. LIMITATION ON REASONABLE PERIOD FOR DELAY.**

Section 3103a(b)(3) of title 18, United States Code, as amended by the applicable Act, is amended by striking “30 days” and inserting “7 days”.

**SA 2895.** Mr. FRIST proposed an amendment to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; as follows:

At the end of the bill add the following: This Act shall become effective 1 day after enactment.

**SA 2896.** Mr. FRIST proposed an amendment SA 2895 proposed by Mr. FRIST to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic