

“(iii) a directive under section 102(a)(4), 105B(e), as in effect on the day before the date of the enactment of the FISA Amendments Act of 2007 or 703(h).

“(7) STATE.—The term ‘State’ means any State, political subdivision of a State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States, and includes any officer, public utility commission, or other body authorized to regulate an electronic communication service provider.

“SEC. 802. PROCEDURES FOR IMPLEMENTING STATUTORY DEFENSES.

“(a) REQUIREMENT FOR CERTIFICATION.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, no civil action may lie or be maintained in a Federal or State court against any person for providing assistance to an element of the intelligence community, and shall be promptly dismissed, if the Attorney General certifies to the court that—

“(A) any assistance by that person was provided pursuant to an order of the court established under section 103(a) directing such assistance;

“(B) any assistance by that person was provided pursuant to a certification in writing under section 2511(2)(a)(ii)(B) or 2709(b) of title 18, United States Code;

“(C) any assistance by that person was provided pursuant to a directive under sections 102(a)(4), 105B(e), as in effect on the day before the date of the enactment of the FISA Amendments Act of 2007, or 703(h) directing such assistance; or

“(D) the person did not provide the alleged assistance.

“(2) REVIEW.—A certification made pursuant to paragraph (1) shall be subject to review by a court for abuse of discretion.

“(b) LIMITATIONS ON DISCLOSURE.—If the Attorney General files a declaration under section 1746 of title 28, United States Code, that disclosure of a certification made pursuant to subsection (a) would harm the national security of the United States, the court shall—

“(1) review such certification in camera and ex parte; and

“(2) limit any public disclosure concerning such certification, including any public order following such an ex parte review, to a statement that the conditions of subsection (a) have been met, without disclosing the subparagraph of subsection (a)(1) that is the basis for the certification.

“(c) REMOVAL.—A civil action against a person for providing assistance to an element of the intelligence community that is brought in a State court shall be deemed to arise under the Constitution and laws of the United States and shall be removable under section 1441 of title 28, United States Code.

“(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section may be construed to limit any otherwise available immunity, privilege, or defense under any other provision of law.

“(e) APPLICABILITY.—This section shall apply to a civil action pending on or filed after the date of enactment of the FISA Amendments Act of 2007.”.

SEC. 204. PREEMPTION OF STATE INVESTIGATIONS.

Title VIII of the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 et seq.), as added by section 203 of this Act, is amended by adding at the end the following new section:

“SEC. 803. PREEMPTION.

“(a) IN GENERAL.—No State shall have authority to—

“(1) conduct an investigation into an electronic communication service provider’s alleged assistance to an element of the intelligence community;

“(2) require through regulation or any other means the disclosure of information

about an electronic communication service provider’s alleged assistance to an element of the intelligence community;

“(3) impose any administrative sanction on an electronic communication service provider for assistance to an element of the intelligence community; or

“(4) commence or maintain a civil action or other proceeding to enforce a requirement that an electronic communication service provider disclose information concerning alleged assistance to an element of the intelligence community.

“(b) SUITS BY THE UNITED STATES.—The United States may bring suit to enforce the provisions of this section.

“(c) JURISDICTION.—The district courts of the United States shall have jurisdiction over any civil action brought by the United States to enforce the provisions of this section.

“(d) APPLICATION.—This section shall apply to any investigation, action, or proceeding that is pending on or filed after the date of enactment of the FISA Amendments Act of 2007.”.

SEC. 205. TECHNICAL AMENDMENTS.

The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following:

“TITLE VIII—PROTECTION OF PERSONS ASSISTING THE GOVERNMENT

“Sec. 801. Definitions.

“Sec. 802. Procedures for implementing statutory defenses.

“Sec. 803. Preemption.”.

SA 3949. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 63, strike lines 7 through 9 and insert the following:

(D) in paragraph (3), as redesignated by subparagraph (B) of this paragraph—

(i) by inserting “and” at the end;

(ii) by striking subparagraphs (B) and (C) and inserting the following:

“(B) the premises or property to be searched is or is about to be owned, used, possessed by, or is in transit to or from a foreign power or an agent of a foreign power;”; and

SA 3950. Mr. BOND submitted an amendment intended to be proposed to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, between lines 2 and 3, insert the following:

“(C) EXPEDITED REVIEW.—Not later than 48 hours after the assignment of a petition filed under subparagraph (A), the assigned judge shall conduct an initial review of the directive. If the assigned judge determines that the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the directive or any part of the directive that is the subject of the petition. If the assigned judge determines that the petition is not frivolous, the assigned judge shall,

within 72 hours, consider the petition in accordance with the procedures established under section 103(e)(2) and provide a written statement for the record of the reasons for any determination under this subparagraph.”.

CONGRATULATING THE STANFORD UNIVERSITY WOMEN’S CROSS COUNTRY TEAM

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 426, submitted earlier today.

The PRESIDING OFFICER (Mr. CASEY). The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 426) congratulating the Stanford University women’s cross country team on winning the 2007 National Collegiate Athletic Association Division I Championship.

There being no objection, the Senate proceeded to consider the resolution.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table, with no intervening action, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 426) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 426

Whereas the Stanford University Cardinal won the 2007 National Collegiate Athletic Association (NCAA) Women’s Cross Country Championship on November 19, 2007, in Terre Haute, Indiana;

Whereas the Cardinal won every postseason race and maintained a top ranking throughout the 2007 season;

Whereas in 2007 the Cardinal won a Division I women’s cross country title for the 3rd year in a row and the 5th time in school history;

Whereas Arianna Lambie, Lauren Centrowitz, and Katie Harrington were honored as All-Americans for their exceptional contributions during the 2007 season; and

Whereas the 2007 Stanford women’s cross country team members are players Arianna Lambie, Lauren Centrowitz, Katie Harrington, Alexandra Gits, Teresa McWalters, Lindsay Allen, Kate Niehaus, Alicia Follmar, Maddie Omeara, and Lindsay Flacks, and coaches Peter Tegen and David Vidal: Now, therefore, be it

Resolved, That the Senate congratulates the Stanford University women’s cross country team for winning the 2007 National Collegiate Athletic Association Division I Championship.

CONGRATULATING THE UNIVERSITY OF CALIFORNIA AT BERKELEY MEN’S WATER POLO TEAM

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 427, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.