



(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To amend the Foreign Intelligence Surveillance Act of 1978 to reform certain authorities and to provide greater transparency and oversight.

IN THE HOUSE OF REPRESENTATIVES

M. Mr. Biggs introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 to reform certain authorities and to provide greater transparency and oversight.

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.**

4 This Act may be cited as the “Protect Liberty and
5 End Warrantless Surveillance Act”.

6 **SEC. 2. QUERY PROCEDURE REFORM.**

7 (a) LIMITATION ON ELIGIBILITY TO CONDUCT QUE-
8 RIES.—Section 702(f)(1) of the Foreign Intelligence Sur-

1 veilance Act of 1978 (50 U.S.C. 1881a(f)(1)) is amended
2 by adding at the end the following:

3 “(D) LIMITATION ON ELIGIBILITY OF FBI
4 PERSONNEL TO CONDUCT UNITED STATES PER-
5 SON QUERIES.—The Attorney General shall en-
6 sure that the procedures adopted under sub-
7 paragraph (A) limit the authority to conduct
8 queries such that—

9 “(i) for each field office of the Federal
10 Bureau of Investigation, the most senior
11 official whose primary duty station is that
12 field office is authorized to designate not
13 more than five individuals whose primary
14 duty station is that field office who are eli-
15 gible to conduct a query using a United
16 States person query term; and

17 “(ii) for the headquarters of the Fed-
18 eral Bureau of Investigation, the Director
19 of the Federal Bureau of Investigation is
20 authorized to designate not more than five
21 individuals whose primary duty station is
22 the Headquarters of the Federal Bureau of
23 Investigation who are eligible to conduct a
24 query using a United States person query
25 term.”.

1 (b) PROHIBITION ON WARRANTLESS QUERIES FOR
2 THE COMMUNICATIONS OF UNITED STATES PERSONS
3 AND PERSONS LOCATED IN THE UNITED STATES.—Sec-
4 tion 702(f) of the Foreign Intelligence Surveillance Act of
5 1978 (50 U.S.C. 1881a(f)), as amended by subsection (a),
6 is further amended—

7 (1) in paragraph (1)—

8 (A) in subparagraph (A), by inserting
9 “and the limitations and requirements in para-
10 graph (2)” after “Constitution of the United
11 States”; and

12 (B) in subparagraph (B), by striking
13 “United States person query term used for a
14 query” and inserting “term for a United States
15 person or person reasonably believed to be in
16 the United States used for a query as required
17 by paragraph (3)”;

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

20 (3) by striking paragraph (2) and inserting the
21 following:

22 “(2) PROHIBITION ON WARRANTLESS QUERIES
23 FOR THE COMMUNICATIONS AND OTHER INFORMA-
24 TION OF UNITED STATES PERSONS AND PERSONS
25 LOCATED IN THE UNITED STATES.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraphs (B) and (C), no officer or em-
3 ployee of the United States may conduct a
4 query of information acquired under this sec-
5 tion in an effort to find communications or in-
6 formation the compelled production of which
7 would require a probable cause warrant if
8 sought for law enforcement purposes in the
9 United States, of or about 1 or more United
10 States persons or persons reasonably believed to
11 be located in the United States at the time of
12 the query or the time of the communication or
13 creation of the information.

14 “(B) EXCEPTIONS FOR CONCURRENT AU-
15 THORIZATION, CONSENT, EMERGENCY SITUA-
16 TIONS, AND CERTAIN DEFENSIVE CYBERSECU-
17 RITY QUERIES.—

18 “(i) IN GENERAL.—Subparagraph (A)
19 shall not apply to a query related to a
20 United States person or person reasonably
21 believed to be located in the United States
22 at the time of the query or the time of the
23 communication or creation of the informa-
24 tion if—

1 “(I) such person is the subject of
2 an order or emergency authorization
3 authorizing electronic surveillance or
4 physical search under section 105 or
5 304 of this Act, or a warrant issued
6 pursuant to the Federal Rules of
7 Criminal Procedure by a court of
8 competent jurisdiction covering the
9 period of the query;

10 “(II)(aa) the officer or employee
11 carrying out the query has a reason-
12 able belief that—

13 “(AA) an emergency exists
14 involving an imminent threat of
15 death or serious bodily harm; and

16 “(BB) in order to prevent or
17 mitigate this threat, the query
18 must be conducted before author-
19 ization pursuant to subparagraph
20 (I) can, with due diligence, be ob-
21 tained; and

22 “(bb) a description of the
23 query is provided to the Foreign
24 Intelligence Surveillance Court
25 and the congressional intelligence

1 committees and the Committees
2 on the Judiciary of the House of
3 Representatives and of the Sen-
4 ate in a timely manner;

5 “(III) such person or, if such
6 person is incapable of providing con-
7 sent, a third party legally authorized
8 to consent on behalf of such person,
9 has provided consent to the query on
10 a case-by-case basis; or

11 “(IV)(aa) the query uses a
12 known cybersecurity threat signature
13 as a query term;

14 “(bb) the query is conducted, and the results of the
15 query are used, for the sole purpose of identifying targeted
16 recipients of malicious software and preventing or miti-
17 gating harm from such malicious software;

18 “(cc) no additional contents of communications re-
19 trieved as a result of the query are accessed or reviewed;
20 and

21 “(dd) all such queries are reported to the Foreign In-
22 telligence Surveillance Court.

23 “(ii) LIMITATIONS.—

24 “(I) USE IN SUBSEQUENT PRO-
25 CEEDINGS AND INVESTIGATIONS.—No

1 information retrieved pursuant to a
2 query authorized by clause (i)(II) or
3 information derived from such query
4 may be used, received in evidence, or
5 otherwise disseminated in any inves-
6 tigation, trial, hearing, or other pro-
7 ceeding in or before any court, grand
8 jury, department, office, agency, regu-
9 latory body, legislative committee, or
10 other authority of the United States,
11 a State, or political subdivision there-
12 of, except in proceedings or investiga-
13 tions that arise from the threat that
14 prompted the query.

15 “(II) ASSESSMENT OF COMPLI-
16 ANCE.—The Attorney General shall
17 not less frequently than annually as-
18 sess compliance with the requirements
19 under subclause (I).

20 “(C) MATTERS RELATING TO EMERGENCY
21 QUERIES.—

22 “(i) TREATMENT OF DENIALS.—In
23 the event that a query for communications
24 or information, the compelled production of
25 which would require a probable cause war-

1 rant if sought for law enforcement pur-
2 poses in the United States, of or about 1
3 more United States persons or persons
4 reasonably believed to be located in the
5 United States at the time of the query or
6 the time of the communication or creation
7 of the information is conducted pursuant
8 to an emergency authorization described in
9 subparagraph (B)(i)(I) and the application
10 for such emergency authorization is denied,
11 or in any other case in which the query has
12 been conducted and no order is issued ap-
13 proving the query—

14 “(I) no information obtained or
15 evidence derived from such query may
16 be used, received in evidence, or other-
17 wise disseminated in any investiga-
18 tion, trial, hearing, or other pro-
19 ceeding in or before any court, grand
20 jury, department, office, agency, regu-
21 latory body, legislative committee, or
22 other authority of the United States,
23 a State, or political subdivision there-
24 of; and

1 “(II) no information concerning
2 any United States person or person
3 reasonably believed to be located in
4 the United States at the time of the
5 query or the time of the communica-
6 tion or the creation of the information
7 acquired from such query may subse-
8 quently be used or disclosed in any
9 other manner without the consent of
10 such person, except with the approval
11 of the Attorney General if the infor-
12 mation indicates a threat of death or
13 serious bodily harm to any person.

14 “(ii) ASSESSMENT OF COMPLIANCE.—

15 The Attorney General shall not less fre-
16 quently than annually assess compliance
17 with the requirements under clause (i).

18 “(D) FOREIGN INTELLIGENCE PURPOSE.—

19 Except as provided in subparagraph (B)(i), no
20 officer or employee of the United States may
21 conduct a query of information acquired under
22 this section in an effort to find information of
23 or about 1 or more United States persons or
24 persons reasonably believed to be located in the
25 United States at the time of the query or the

1 time of the communication or creation of the in-
2 formation unless the query is reasonably likely
3 to retrieve foreign intelligence information.

4 “(3) DOCUMENTATION.—No officer or employee
5 of the United States may conduct a query of infor-
6 mation acquired under this section in an effort to
7 find information of or about 1 or more United
8 States persons or persons reasonably believed to be
9 located in the United States at the time of query or
10 the time of the communication or the creation of the
11 information, unless first an electronic record is cre-
12 ated, and a system, mechanism, or business practice
13 is in place to maintain such record, that includes the
14 following:

15 “(A) Each term used for the conduct of
16 the query.

17 “(B) The date of the query.

18 “(C) The identifier of the officer or em-
19 ployee.

20 “(D) A statement of facts showing that the
21 use of each query term included under subpara-
22 graph (A) is—

23 “(i) reasonably likely to retrieve for-
24 eign intelligence information; or

1 “(ii) in furtherance of the exceptions
2 described in paragraph (2)(B)(i).

3 “(4) PROHIBITION ON RESULTS OF METADATA
4 QUERY AS A BASIS FOR ACCESS TO COMMUNICA-
5 TIONS AND OTHER PROTECTED INFORMATION.—If a
6 query of information acquired under this section is
7 conducted in an effort to find communications
8 metadata of 1 or more United States persons or per-
9 sons reasonably believed to be located in the United
10 States at the time of the query or communication
11 and the query returns such metadata, the results of
12 the query shall not be used as a basis for reviewing
13 communications or information a query for which is
14 otherwise prohibited under this section.

15 “(5) FEDERATED DATASETS.—The prohibitions
16 and requirements in this section shall apply to que-
17 ries of federated and mixed datasets that include in-
18 formation acquired under this section, unless a
19 mechanism exists to limit the query to information
20 not acquired under this section.”.

1 **SEC. 3. LIMITATION ON USE OF INFORMATION OBTAINED**
2 **UNDER SECTION 702 OF THE FOREIGN INTEL-**
3 **LIGENCE SURVEILLANCE ACT OF 1978 RELAT-**
4 **ING TO UNITED STATES PERSONS AND PER-**
5 **SONS LOCATED IN THE UNITED STATES IN**
6 **CRIMINAL, CIVIL, AND ADMINISTRATIVE AC-**
7 **TIONS.**

8 Paragraph (2) of section 706(a) of the Foreign Intel-
9 ligence Surveillance Act of 1978 (50 U.S.C. 1881e(a)) is
10 amended to read as follows:

11 “(2) LIMITATION ON USE IN CRIMINAL, CIVIL,
12 AND ADMINISTRATIVE PROCEEDINGS AND INVES-
13 TIGATIONS.—No information acquired pursuant to
14 section 702(f) of or about a United States person or
15 person reasonably believed to be located in the
16 United States at the time of acquisition or commu-
17 nication may be introduced as evidence against such
18 person in any criminal, civil, or administrative pro-
19 ceeding or used as part of any criminal, civil, or ad-
20 ministrative investigation, except—

21 “(A) with the prior approval of the Attor-
22 ney General; and

23 “(B) in a proceeding or investigation in
24 which the information is directly related to and
25 necessary to address a specific threat of—

1 “(i) the commission of a Federal
2 crime of terrorism under any of clauses (i)
3 through (iii) of section 2332b(g)(5)(B) of
4 title 18, United States Code;

5 “(ii) actions necessitating counter-
6 intelligence (as defined in section 3 of the
7 National Security Act of 1947 (50 U.S.C.
8 3003));

9 “(iii) the proliferation or the use of a
10 weapon of mass destruction (as defined in
11 section 2332a(c) of title 18, United States
12 Code);

13 “(iv) a cybersecurity breach or attack
14 from a foreign country;

15 “(v) incapacitation or destruction of
16 critical infrastructure (as defined in section
17 1016(e) of the Uniting and Strengthening
18 America by Providing Appropriate Tools
19 Required to Intercept and Obstruct Ter-
20 rorism (USA PATRIOT ACT) Act of 2001
21 (42 U.S.C. 5195e(e)));

22 “(vi) an attack against the armed
23 forces of the United States or an ally of
24 the United States or to other personnel of

1 the United States Government or a govern-
2 ment of an ally of the United States; or
3 “(vii) international narcotics traf-
4 ficking.”.

5 **SEC. 4. REPEAL OF AUTHORITY FOR THE RESUMPTION OF**
6 **ABOUTS COLLECTION.**

7 (a) IN GENERAL.—Section 702(b)(5) of the Foreign
8 Intelligence Surveillance Act of 1978 (50 U.S.C.
9 1881a(b)(5)) is amended by striking “, except as provided
10 under section 103(b) of the FISA Amendments Reauthor-
11 ization Act of 2017”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) FOREIGN INTELLIGENCE SURVEILLANCE
14 ACT OF 1978.—Section 702(m) of the Foreign Intel-
15 ligence Surveillance Act of 1978 (50 U.S.C.
16 1881a(m)) is amended—

17 (A) in the subsection heading, by striking
18 “REVIEWS, AND REPORTING” and inserting
19 “AND REVIEWS”; and

20 (B) by striking paragraph (4).

21 (2) FISA AMENDMENTS REAUTHORIZATION ACT
22 OF 2017.—Section 103 of the FISA Amendments Re-
23 authorization Act of 2017 (Public Law 115–118; 50
24 U.S.C. 1881a note) is amended—

25 (A) by striking subsection (b); and

1 (B) by striking “(a) IN GENERAL.—”.

2 **SEC. 5. FOREIGN INTELLIGENCE SURVEILLANCE COURT**
3 **REFORM.**

4 (a) REQUIREMENT FOR SAME JUDGE TO HEAR RE-
5 NEWAL APPLICATIONS.—Section 103(a)(1) of the Foreign
6 Intelligence Surveillance Act of 1978 (50 U.S.C.
7 1803(a)(1)) is amended by adding at the end the fol-
8 lowing: “To the extent practicable, no judge designated
9 under this subsection shall hear a renewal application for
10 electronic surveillance under this Act, which application
11 was previously granted by another judge designated under
12 this subsection, unless the term of the judge who granted
13 the application has expired, or that judge is otherwise no
14 longer serving on the court.”.

15 (b) USE OF AMICI CURIAE IN FOREIGN INTEL-
16 LIGENCE SURVEILLANCE COURT PROCEEDINGS.—

17 (1) EXPANSION OF APPOINTMENT AUTHOR-
18 ITY.—

19 (A) IN GENERAL.—Section 103(i)(2) of the
20 Foreign Intelligence Surveillance Act of 1978
21 (50 U.S.C. 1803(i)(2)) is amended—

22 (i) by striking subparagraph (A) and
23 inserting the following:

24 “(A) shall, unless the court issues a find-
25 ing that appointment is not appropriate, ap-

1 point 1 or more individuals who have been des-
2 ignated under paragraph (1), not fewer than 1
3 of whom possesses privacy and civil liberties ex-
4 pertise, unless the court finds that such a quali-
5 fication is inappropriate, to serve as amicus cu-
6 riae to assist the court in the consideration of
7 any application or motion for an order or review
8 that, in the opinion of the court—

9 “(i) presents a novel or significant in-
10 terpretation of the law;

11 “(ii) presents significant concerns
12 with respect to the activities of a United
13 States person that are protected by the
14 first amendment to the Constitution of the
15 United States;

16 “(iii) presents or involves a sensitive
17 investigative matter;

18 “(iv) presents a request for approval
19 of a new program, a new technology, or a
20 new use of existing technology;

21 “(v) presents a request for reauthor-
22 ization of programmatic surveillance;

23 “(vi) otherwise presents novel or sig-
24 nificant civil liberties issues; or

1 “(vii) otherwise involves the activities
2 of a United States person; and”; and

3 (ii) in subparagraph (B), by striking
4 “an individual or organization” each place
5 the term appears and inserting “1 or more
6 individuals or organizations”.

7 (B) DEFINITION OF SENSITIVE INVESTIGA-
8 TIVE MATTER.—Section 103(i) of the Foreign
9 Intelligence Surveillance Act of 1978 (50
10 U.S.C. 1803(i)) is amended by adding at the
11 end the following:

12 “(12) DEFINITION.—In this subsection, the
13 term ‘sensitive investigative matter’ means—

14 “(A) an investigative matter involving the
15 activities of—

16 “(i) a domestic public official or polit-
17 ical candidate, or an individual serving on
18 the staff of such an official or candidate;

19 “(ii) a domestic religious or political
20 organization, or a known or suspected
21 United States person prominent in such an
22 organization; or

23 “(iii) the domestic news media; or

24 “(B) any other investigative matter involv-
25 ing a domestic entity or a known or suspected

1 United States person that, in the judgment of
2 the applicable court established under sub-
3 section (a) or (b), is as sensitive as an inves-
4 tigative matter described in subparagraph
5 (A).”.

6 (2) AUTHORITY TO SEEK REVIEW.—Section
7 103(i) of the Foreign Intelligence Surveillance Act of
8 1978 (50 U.S.C. 1803(i)), as amended by subsection
9 (a) of this section, is amended—

10 (A) in paragraph (4)—

11 (i) in the paragraph heading, by in-
12 serting “; AUTHORITY” after “DUTIES”;

13 (ii) by redesignating subparagraphs
14 (A), (B), and (C) as clauses (i), (ii), and
15 (iii), respectively, and adjusting the mar-
16 gins accordingly;

17 (iii) in the matter preceding clause (i),
18 as so redesignated, by striking “the amicus
19 curiae shall” and inserting the following:
20 “the amicus curiae—
21 “(A) shall”;

22 (iv) in subparagraph (A)(i), as so re-
23 designated, by inserting before the semi-
24 colon at the end the following: “, including
25 legal arguments regarding any privacy or

1 civil liberties interest of any United States
2 person that would be significantly im-
3 pacted by the application or motion”; and

4 (v) by striking the period at the end
5 and inserting the following: “; and

6 “(B) may seek leave to raise any novel or
7 significant privacy or civil liberties issue rel-
8 evant to the application or motion or other
9 issue directly impacting the legality of the pro-
10 posed electronic surveillance with the court, re-
11 gardless of whether the court has requested as-
12 sistance on that issue.”;

13 (B) by redesignating paragraphs (7)
14 through (12) as paragraphs (8) through (13),
15 respectively; and

16 (C) by inserting after paragraph (6) the
17 following:

18 “(7) AUTHORITY TO SEEK REVIEW OF DECI-
19 SIONS.—

20 “(A) FISA COURT DECISIONS.—

21 “(i) PETITION.—Following issuance of
22 an order under this Act by the Foreign In-
23 telligence Surveillance Court, an amicus
24 curiae appointed under paragraph (2) may
25 petition the Foreign Intelligence Surveil-

1 lance Court to certify for review to the
2 Foreign Intelligence Surveillance Court of
3 Review a question of law pursuant to sub-
4 section (j).

5 “(ii) WRITTEN STATEMENT OF REA-
6 SONS.—If the Foreign Intelligence Surveil-
7 lance Court denies a petition under this
8 subparagraph, the Foreign Intelligence
9 Surveillance Court shall provide for the
10 record a written statement of the reasons
11 for the denial.

12 “(iii) APPOINTMENT.—Upon certifi-
13 cation of any question of law pursuant to
14 this subparagraph, the Court of Review
15 shall appoint the amicus curiae to assist
16 the Court of Review in its consideration of
17 the certified question, unless the Court of
18 Review issues a finding that such appoint-
19 ment is not appropriate.

20 “(B) FISA COURT OF REVIEW DECI-
21 SIONS.—An amicus curiae appointed under
22 paragraph (2) may petition the Foreign Intel-
23 ligence Surveillance Court of Review to certify
24 for review to the Supreme Court of the United

1 States any question of law pursuant to section
2 1254(2) of title 28, United States Code.

3 “(C) DECLASSIFICATION OF REFER-
4 RALS.—For purposes of section 602, a petition
5 filed under subparagraph (A) or (B) of this
6 paragraph and all of its content shall be consid-
7 ered a decision, order, or opinion issued by the
8 Foreign Intelligence Surveillance Court or the
9 Foreign Intelligence Surveillance Court of Re-
10 view described in paragraph (2) of section
11 602(a).”.

12 (3) ACCESS TO INFORMATION.—

13 (A) APPLICATION AND MATERIALS.—Sec-
14 tion 103(i)(6) of the Foreign Intelligence Sur-
15 veillance Act of 1978 (50 U.S.C. 1803(i)(6)) is
16 amended by striking subparagraph (A) and in-
17 serting the following:

18 “(A) IN GENERAL.—

19 “(i) RIGHT OF AMICUS.—If a court
20 established under subsection (a) or (b) ap-
21 points an amicus curiae under paragraph
22 (2), the amicus curiae—

23 “(I) shall have access, to the ex-
24 tent such information is available to
25 the Government, to—

1 “(aa) the application, certifi-
2 cation, petition, motion, and
3 other information and supporting
4 materials, including any informa-
5 tion described in section 901,
6 submitted to the Foreign Intel-
7 ligence Surveillance Court in con-
8 nection with the matter in which
9 the amicus curiae has been ap-
10 pointed, including access to any
11 relevant legal precedent (includ-
12 ing any such precedent that is
13 cited by the Government, includ-
14 ing in such an application);

15 “(bb) an unredacted copy of
16 each relevant decision made by
17 the Foreign Intelligence Surveil-
18 lance Court or the Foreign Intel-
19 ligence Surveillance Court of Re-
20 view in which the court decides a
21 question of law, without regard
22 to whether the decision is classi-
23 fied; and

24 “(cc) any other information
25 or materials that the court deter-

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

3 “(II) may make a submission to
4 the court requesting access to any
5 other particular materials or informa-
6 tion (or category of materials or infor-
7 mation) that the amicus curiae be-
8 lieves to be relevant to the duties of
9 the amicus curiae.

10 “(ii) SUPPORTING DOCUMENTATION
11 REGARDING ACCURACY.—The Foreign In-
12 telligence Surveillance Court, upon the mo-
13 tion of an amicus curiae appointed under
14 paragraph (2) or upon its own motion,
15 may require the Government to make
16 available the supporting documentation de-
17 scribed in section 902.”.

18 (B) CLARIFICATION OF ACCESS TO CER-
19 TAIN INFORMATION.—Section 103(i)(6) of the
20 Foreign Intelligence Surveillance Act of 1978
21 (50 U.S.C. 1803(i)(6)) is amended—

22 (i) in subparagraph (B), by striking
23 “may” and inserting “shall”; and

24 (ii) by striking subparagraph (C) and
25 inserting the following:

1 “(C) CLASSIFIED INFORMATION.—An ami-
2 cus curiae designated or appointed by the court
3 shall have access, to the extent such informa-
4 tion is available to the Government, to
5 unredacted copies of each opinion, order, tran-
6 script, pleading, or other document of the For-
7 eign Intelligence Surveillance Court and the
8 Foreign Intelligence Surveillance Court of Re-
9 view, including, if the individual is eligible for
10 access to classified information, any classified
11 documents, information, and other materials or
12 proceedings.”.

13 (4) EFFECTIVE DATE.—The amendments made
14 by this section shall take effect on the date of enact-
15 ment of this Act and shall apply with respect to pro-
16 ceedings under the Foreign Intelligence Surveillance
17 Act of 1978 (50 U.S.C. 1801 et seq.) that take place
18 on or after, or are pending on, that date.

19 **SEC. 6. APPLICATION FOR AN ORDER APPROVING ELEC-**
20 **TRONIC SURVEILLANCE.**

21 (a) DISCLOSURE REQUIREMENT.—Section 104(a) of
22 the Foreign Intelligence Surveillance Act of 1978 (50
23 U.S.C. 1804(a)) is amended—

1 (1) in paragraph (6)(E)(ii), by inserting before
2 the semicolon at the end “(and a description of such
3 techniques)”;

4 (2) in paragraph (8), by striking “and” at the
5 end;

6 (3) in paragraph (9), by striking the period at
7 the end and inserting a semicolon; and

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

10 “(10) all information material to the applica-
11 tion, including any information that tends to
12 rebut—

13 “(A) any allegation set forth in the appli-
14 cation; or

15 “(B) the existence of probable cause to be-
16 lieve that—

17 “(i) the target of the electronic sur-
18 veillance is a foreign power or an agent of
19 a foreign power; and

20 “(ii) each of the facilities or places at
21 which the electronic surveillance is directed
22 is being used, or is about to be used, by a
23 foreign power or an agent of a foreign
24 power; and

1 “(11) an affidavit executed by each Federal em-
2 ployee who contributed to the drafting of the appli-
3 cation attesting to the accuracy of the application.”.

4 (b) PROHIBITION ON USE OF CERTAIN INFORMA-
5 TION.—Section 104 of the Foreign Intelligence Surveil-
6 lance Act of 1978 (50 U.S.C. 1804) is amended by adding
7 at the end the following:

8 “(e) The statement of facts and circumstances under
9 subsection (a)(3) may only include information obtained
10 from the content of a media source or information gath-
11 ered by a political campaign if—

12 “(1) such information is disclosed in the appli-
13 cation as having been so obtained or gathered; and

14 “(2) such information is not the sole source of
15 the information used to justify the applicant’s belief
16 described in subsection (a)(3).”.

17 (c) LIMITATION ON ISSUANCE OF ORDER.—Section
18 105(a) of the Foreign Intelligence Surveillance Act of
19 1978 (50 U.S.C. 1805(a)) is amended—

20 (1) in paragraph (3), by striking “; and” and
21 inserting a semicolon;

22 (2) in paragraph (4), by striking the period and
23 inserting “; and”; and

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

1 “(5) the statement of facts and circumstances
2 under subsection (a)(3) may only include informa-
3 tion obtained from the content of a media source or
4 information gathered by a political campaign if—

5 “(A) such information is disclosed in the
6 application as having been so obtained or gath-
7 ered; and

8 “(B) such information is not the sole
9 source of the information used to justify the ap-
10 plicant’s belief described in subsection (a)(3).”.

11 **SEC. 7. PUBLIC DISCLOSURE AND DECLASSIFICATION OF**
12 **CERTAIN DOCUMENTS.**

13 (a) SUBMISSION TO CONGRESS.—Section 601(c)(1)
14 of the Foreign Intelligence Surveillance Act of 1978 (50
15 U.S.C. 1871(c)) is amended by inserting “, including de-
16 classified copies that have undergone review under section
17 602” before “; and”.

18 (b) TIMELINE FOR DECLASSIFICATION REVIEW.—
19 Section 602(a) of the Foreign Intelligence Surveillance
20 Act of 1978 (50 U.S.C. 1872(a)) is amended—

21 (1) by inserting after “shall conduct a declas-
22 sification review” the following: “, to be concluded
23 not later than 45 days after the commencement of
24 such review,”; and

1 (2) by inserting after “a significant construc-
2 tion or interpretation of any provision of law” the
3 following: “or results in a change of application of
4 any provision of this Act or a novel application of
5 any provision of this Act”.

6 **SEC. 8. TRANSCRIPTIONS OF PROCEEDINGS; ATTENDANCE**
7 **OF CERTAIN CONGRESSIONAL OFFICIALS AT**
8 **CERTAIN PROCEEDINGS.**

9 Section 103(c) of the Foreign Intelligence Surveil-
10 lance Act of 1978 (50 U.S.C. 1803(c)) is amended—

11 (1) by striking “Proceedings under this Act”
12 and inserting the following: “(1) Proceedings under
13 this Act”;

14 (2) by striking “including applications made
15 and orders granted” and inserting “including appli-
16 cations made, orders granted, and transcriptions of
17 proceedings,”; and

18 (3) by adding at the end:

19 “(2) The chair and ranking minority member of each
20 of the congressional intelligence committees and of the
21 Committees on the Judiciary of the House of Representa-
22 tives and of the Senate shall be entitled to attend any pro-
23 ceeding of the Foreign Intelligence Surveillance Court or
24 any proceeding of the Foreign Intelligence Surveillance
25 Court of Review. Each person entitled to attend a pro-

ceeding pursuant to this paragraph may designate not more than 2 Members of Congress and not more than 2 staff members of such committee to attend on their behalf, pursuant to such procedures as the Attorney General, in consultation with the Director of National Intelligence may establish. Not later than 45 days after any such proceeding, a copy of any application made, order granted, or transcription of the proceeding shall be made available for review to each person who is entitled to attend a proceeding pursuant to this paragraph or who is designated under this paragraph. Terms used in this paragraph have the meanings given such terms in section 701(b).”.

SEC. 9. ANNUAL AUDIT OF FISA COMPLIANCE BY INSPECTOR GENERAL.

(a) **REPORT REQUIRED.**—Title VI of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871 et seq.) is amended by adding at the end the following:

“SEC. 605. ANNUAL AUDIT OF FISA COMPLIANCE BY INSPECTOR GENERAL.

“Beginning with the first calendar year that begins after the effective date of this section, by not later than June 30th of that year and each year thereafter, the Inspector General of the Department of Justice shall conduct an audit on alleged violations and failures to comply with the requirements of this Act and any procedures es-

1 tablished pursuant to this Act, and submit a report there-
2 on to the congressional intelligence committees and the
3 Committees on the Judiciary of the House of Representa-
4 tives and of the Senate.”.

5 (b) CLERICAL AMENDMENT.—The table of contents
6 for the Foreign Intelligence Surveillance Act of 1978 (50
7 U.S.C. 1801 et seq.) is amended by adding at the end
8 the following:

“605. Annual audit of FISA compliance by Inspector General.”.

9 **SEC. 10. REPORTING ON ACCURACY AND COMPLETENESS**
10 **OF APPLICATIONS.**

11 Section 603 of the Foreign Intelligence Surveillance
12 Act of 1978 (50 U.S.C. 1873) is amended—

13 (1) in subsection (a)(1)—

14 (A) by redesignating subparagraphs (B)
15 through (F) as subparagraphs (C) through (G)
16 respectively; and

17 (B) by inserting after subparagraph (A)
18 the following:

19 “(B) an analysis of the accuracy and com-
20 pleteness of such applications and certifications
21 submitted;”; and

22 (2) in subsection (a)(2), by striking “subpara-
23 graph (F)” and inserting “subparagraph (G)”.

1 **SEC. 11. ANNUAL REPORT OF THE FEDERAL BUREAU OF IN-**
2 **VESTIGATION.**

3 (a) **REPORT REQUIRED.**—Title VI of the Foreign In-
4 telligence Surveillance Act of 1978 (50 U.S.C. 1871 et
5 seq.), as amended by this Act, is further amended by add-
6 ing at the end the following:

7 **“SEC. 606. ANNUAL REPORT OF THE FEDERAL BUREAU OF**
8 **INVESTIGATION.**

9 “Not later than 1 year after the date of enactment
10 of this section, and annually thereafter, the Director of
11 the Federal Bureau of Investigation shall submit to the
12 congressional intelligence committees and the Committees
13 on the Judiciary of the House of Representatives and of
14 the Senate—

15 “(1) a report on disciplinary activities taken by
16 the Director to address violations of the require-
17 ments of law or the procedures established under
18 this Act, including a comprehensive account of dis-
19 ciplinary investigations, including—

20 “(A) all such investigations ongoing as of
21 the date the report is submitted;

22 “(B) the adjudications of such investiga-
23 tions when concluded; and

24 “(C) disciplinary actions taken as a result
25 of such adjudications; and

1 “(2) a report on the conduct of queries con-
2 ducted under section 702 for the preceding year
3 using a United States person query term, includ-
4 ing—

5 “(A) the number of such queries con-
6 ducted;

7 “(B) what terms were used;

8 “(C) the number of warrants issued and
9 denied under section 702(f)(1); and

10 “(D) the number of times exceptions were
11 alleged under 702(f)(2).”.

12 (b) CLERICAL AMENDMENT.—The table of contents
13 for the Foreign Intelligence Surveillance Act of 1978 (50
14 U.S.C. 1801 et seq.), as amended by this Act, is further
15 amended by adding at the end the following:

“606. Annual report of the Federal Bureau of Investigation.”.

16 **SEC. 12. EXTENSION OF TITLE VII OF FISA; EXPIRATION OF**
17 **FISA AUTHORITIES; EFFECTIVE DATES.**

18 (a) EFFECTIVE DATES.—Section 403(b) of the FISA
19 Amendments Act of 2008 (Public Law 110–261; 122 Stat.
20 2474) is amended—

21 (1) in paragraph (1)—

22 (A) by striking “December 31, 2023” and
23 inserting “December 31, 2026”; and

24 (B) by striking “, as amended by section
25 101 and by the FISA Amendments Reauthor-

1 ization Act of 2017,” and inserting “, as most
2 recently amended,”; and

3 (2) in paragraph (2) in the matter preceding
4 subparagraph (A), by striking “December 31, 2023”
5 and inserting “December 31, 2026”.

6 (b) CONFORMING AMENDMENTS.—Section 404(b) of
7 the FISA Amendments Act of 2008 (Public Law 110–261;
8 122 Stat. 2476), is amended—

9 (1) in paragraph (1)—

10 (A) in the heading, by striking “DECEM-
11 BER 31, 2023” and inserting “DECEMBER 31,
12 2026”; and

13 (B) by striking “, as amended by section
14 101(a) and by the FISA Amendments Reau-
15 thorization Act of 2017,” and inserting “, as
16 most recently amended,”;

17 (2) in paragraph (2), by striking “, as amended
18 by section 101(a) and by the FISA Amendments Re-
19 authorization Act of 2017,” and inserting “, as most
20 recently amended,”; and

21 (3) in paragraph (4)—

22 (A) by striking “, as added by section
23 101(a) and amended by the FISA Amendments
24 Reauthorization Act of 2017,” both places it

1 appears and inserting “, as added by section
2 101(a) and as most recently amended,”; and
3 (B) by striking “, as amended by section
4 101(a) and by the FISA Amendments Reau-
5 thorization Act of 2017,” and inserting “, as
6 most recently amended,” both places it appears.

7 **SEC. 13. CRIMINAL PENALTIES FOR VIOLATIONS OF FISA.**

8 (a) IN GENERAL.—Section 109 of the Foreign Intel-
9 ligence Surveillance Act of 1978 (50 U.S.C. 1809) is
10 amended as follows:

11 (1) ADDITIONAL OFFENSES.—In subsection

12 (a)—

13 (A) in the matter preceding paragraph (1),
14 by striking “intentionally”;

15 (B) in paragraph (1)—

16 (i) by inserting “intentionally” before
17 “engages in”; and

18 (ii) by striking “or” at the end;

19 (C) in paragraph (2)—

20 (i) by inserting “intentionally” before
21 “discloses or uses”; and

22 (ii) by striking the period at the end
23 and inserting a semicolon; and

24 (D) by adding at the end the following: .

1 “(3) knowingly submits any document to or
2 makes any false statement before the Foreign Intel-
3 ligence Surveillance Court or the Foreign Intel-
4 ligence Surveillance Court of Review, knowing such
5 document or statement to contain—

6 “(A) a false material declaration; or

7 “(B) a material omission; or

8 “(4) knowingly discloses the existence of an ap-
9 plication for an order authorizing surveillance under
10 this title, or any information contained therein, to
11 any person not authorized to receive such informa-
12 tion.”.

13 (2) ENHANCED PENALTIES.—In subsection (c),
14 is amended to read as follows:

15 “(c) PENALTIES.—In the case of an offense under
16 any of paragraphs (1) through (4) of subsection (a), the
17 offense is punishable by a fine of not more than \$10,000
18 or imprisonment for not more than 8 years, or both.”.

19 (b) RULE OF CONSTRUCTION.—This Act and the
20 amendments made by this Act may not be construed to
21 interfere with the enforcement of section 798 of title 18,
22 United States Code, or any other provision of law regard-
23 ing the unlawful disclosure of classified information.

1 **SEC. 14. CONTEMPT POWER OF FISC AND FISC-R.**

2 (a) IN GENERAL.—Chapter 21 of title 18, United
3 States Code, is amended—

4 (1) in section 402, by inserting after “any dis-
5 trict court of the United States” the following: “,
6 the Foreign Intelligence Surveillance Court, the For-
7 eign Intelligence Surveillance Court of Review,”; and

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

9 **“§ 404. Definitions**

10 “For purposes of this chapter—

11 “(1) the term ‘court of the United States’ in-
12 cludes the Foreign Intelligence Surveillance Court or
13 the Foreign Intelligence Surveillance Court of Re-
14 view; and

15 “(2) the terms ‘Foreign Intelligence Surveil-
16 lance Court’ and ‘Foreign Intelligence Surveillance
17 Court of Review’ have the meanings given such
18 terms in section 601(e) of the Foreign Intelligence
19 Surveillance Act of 1978.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for such chapter is amended by inserting after the item
22 pertaining to section 403 the following:

“404. Definitions.”.

23 (c) REPORT.—Not later than one year after the date
24 of enactment, and annually thereafter the Foreign Intel-
25 ligence Surveillance Court and the Foreign Intelligence

1 Surveillance Court of Review (as such terms are defined
2 in section 601(e) of the Foreign Intelligence Surveillance
3 Act of 1978) shall jointly submit to Congress a report on
4 the exercise of authority under chapter 21 of title 18,
5 United States Code, by such courts during the previous
6 year.

7 **SEC. 15. INCREASED PENALTIES FOR CIVIL ACTIONS.**

8 (a) INCREASED PENALTIES.—Section 110(a) of the
9 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
10 1810(a)) is amended to read as follows:

11 “(a) actual damages, but not less than liq-
12 uidated damages equal to the greater of—

13 “(1) if the aggrieved person is a United States
14 person, \$10,000 or \$1,000 per day for each day of
15 violation; or

16 “(2) for any other aggrieved person, \$1,000 or
17 \$100 per day for each day of violation;”.

18 (b) REPORTING REQUIREMENT.—Title I of the For-
19 eign Intelligence Surveillance Act of 1978 is amended by
20 inserting after section 110 the following:

21 **“SEC. 110A. REPORTING REQUIREMENTS FOR CIVIL AC-**
22 **TIONS.**

23 “(a) REPORT TO CONGRESS.—If a court finds that
24 a person has violated this Act in a civil action under sec-
25 tion 110, the head of the agency that employs that person

1 shall report to Congress on the administrative action
2 taken against that person pursuant to section 607 or any
3 other provision of law.

4 “(b) FISC.—If a court finds that a person has vio-
5 lated this Act in a civil action under section 110, the head
6 of the agency that employs that person shall report the
7 name of such person to the Foreign Intelligence Surveil-
8 lance Court. The Foreign Intelligence Surveillance Court
9 shall maintain a list of each person about whom it received
10 a report under this subsection.”.

11 **SEC. 16. ACCOUNTABILITY PROCEDURES FOR INCIDENTS**
12 **RELATING TO QUERIES CONDUCTED BY THE**
13 **FEDERAL BUREAU OF INVESTIGATION.**

14 (a) IN GENERAL.—Title VII of the Foreign Intel-
15 ligence Surveillance Act of 1978 (50 U.S.C. 1881 et seq.)
16 is amended by adding at the end the following:

17 **“SEC. 709. ACCOUNTABILITY PROCEDURES FOR INCIDENTS**
18 **RELATING TO QUERIES CONDUCTED BY THE**
19 **FEDERAL BUREAU OF INVESTIGATION.**

20 “(a) IN GENERAL.—The Director of the Federal Bu-
21 reau of Investigation shall establish procedures to hold
22 employees of the Federal Bureau of Investigation account-
23 able for violations of law, guidance, and procedure gov-
24 erning queries of information acquired pursuant to section
25 702.

1 “(b) ELEMENTS.—The procedures established under
2 subsection (a) shall include the following:

3 “(1) Centralized tracking of individual employee
4 performance incidents involving negligent violations
5 of law, guidance, and procedure described in sub-
6 section (a), over time.

7 “(2) Escalating consequences for such inci-
8 dents, including—

9 “(A) consequences for initial incidents, in-
10 cluding, at a minimum—

11 “(i) suspension of access to informa-
12 tion acquired under this Act; and

13 “(ii) documentation of the incident in
14 the personnel file of each employee respon-
15 sible for the violation; and

16 “(B) consequences for subsequent inci-
17 dents, including, at a minimum—

18 “(i) possible indefinite suspension of
19 access to information acquired under this
20 Act;

21 “(ii) reassignment of each employee
22 responsible for the violation; and

23 “(iii) referral of the incident to the
24 Inspection Division of the Federal Bureau

1 of Investigation for review of potentially
2 reckless conduct.

3 “(3) Clarification of requirements for referring
4 intentional misconduct and reckless conduct to the
5 Inspection Division of the Federal Bureau of Inves-
6 tigation for investigation and disciplinary action by
7 the Office of Professional Responsibility of the Fed-
8 eral Bureau of Investigation.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 for such Act is amended by inserting after the item relat-
11 ing to section 708 the following:

“709. Accountability procedures for incidents relating to queries conducted by
the Federal Bureau of Investigation.”.

12 (c) REPORT REQUIRED.—

13 (1) INITIAL REPORT.—Not later than 180 days
14 after the date of the enactment of this Act, the Di-
15 rector of the Federal Bureau of Investigation shall
16 submit to the Committees on the Judiciary of the
17 House of Representatives and of the Senate and to
18 the congressional intelligence committees (as such
19 term is defined in section 801 of the Foreign Intel-
20 ligence Surveillance Act of 1978 (50 U.S.C. 1885))
21 a report detailing the procedures established under
22 section 709 of the Foreign Intelligence Surveillance
23 Act of 1978, as added by subsection (a).

1 (2) ANNUAL REPORT.—Not later than 1 year
2 after the date of enactment of this Act, and annually
3 thereafter, the Federal Bureau of Investigation shall
4 submit to the Committees on the Judiciary of the
5 House of Representatives and of the Senate and to
6 the congressional intelligence committees (as such
7 term is defined in section 801 of the Foreign Intel-
8 ligence Surveillance Act of 1978 (50 U.S.C. 1885))
9 a report on any disciplinary actions taken pursuant
10 to the procedures established under section 709 of
11 the Foreign Intelligence Surveillance Act of 1978, as
12 added by subsection (a), including a description of
13 the circumstances surrounding each such discipli-
14 nary action, and the results of each such disciplinary
15 action.

16 (3) FORM.—The reports required under para-
17 graphs (1) and (2) shall be submitted in unclassified
18 form, but may include a classified annex to the ex-
19 tent necessary to protect sources and methods.

20 **SEC. 17. AGENCY PROCEDURES TO ENSURE COMPLIANCE.**

21 (a) AGENCY PROCEDURES TO ENSURE COMPLI-
22 ANCE.—Title VI of the Foreign Intelligence Surveillance
23 Act of 1978 (50 U.S.C. 1871 et seq.), as amended by this
24 Act, is further amended by adding at the end the fol-
25 lowing:

1 **"SEC. 607. AGENCY PROCEDURES TO ENSURE COMPLI-**
2 **ANCE.**

3 "The head of each Federal department or agency au-
4 thorized to acquire foreign intelligence information under
5 this Act shall establish procedures—

6 "(1) setting forth clear rules on what con-
7 stitutes a violation of this Act by an officer or em-
8 ployee of that department or agency; and

9 "(2) for taking appropriate adverse personnel
10 action against any officer or employee of the depart-
11 ment or agency who engages in such a violation, in-
12 cluding more severe adverse actions for any subse-
13 quent violation."

14 (b) CLERICAL AMENDMENT.—The table of contents
15 for the Foreign Intelligence Surveillance Act of 1978 (50
16 U.S.C. 1801 et seq.), as amended by this Act, is further
17 amended by adding at the end the following:

"607. Agency procedures to ensure compliance."

18 (c) REPORT.—Not later than 3 months after the date
19 of enactment of this Act, the head of each Federal depart-
20 ment or agency that is required to establish procedures
21 under section 607 of the Foreign Intelligence Surveillance
22 Act of 1978 shall report to Congress on such procedures.

1 **SEC. 18. PROTECTION OF RECORDS HELD BY DATA BRO-**
2 **KERS.**

3 Section 2702 of title 18, United States Code, is
4 amended by adding at the end the following:

5 “(e) PROHIBITION ON OBTAINING IN EXCHANGE FOR
6 ANYTHING OF VALUE CERTAIN RECORDS AND INFORMA-
7 TION BY LAW ENFORCEMENT AND INTELLIGENCE AGEN-
8 CIES.—

9 “(1) DEFINITIONS.—In this subsection—

10 “(A) the term ‘covered customer or sub-
11 scriber record’ means a covered record that is—

12 “(i) disclosed to a third party by—

13 “(I) a provider of an electronic
14 communication service to the public or
15 a provider of a remote computing
16 service of which the covered person
17 with respect to the covered record is a
18 subscriber or customer; or

19 “(II) an intermediary service pro-
20 vider that delivers, stores, or proc-
21 esses communications of such covered
22 person;

23 “(ii) collected by a third party from
24 an online account of a covered person; or

1 “(iii) collected by a third party from
2 or about an electronic device of a covered
3 person;

4 “(B) the term ‘covered person’ means—

5 “(i) a person who is located inside the
6 United States; or

7 “(ii) a person—

8 “(I) who is located outside the
9 United States or whose location can-
10 not be determined; and

11 “(II) who is a United States per-
12 son, as defined in section 101 of the
13 Foreign Intelligence Surveillance Act
14 of 1978 (50 U.S.C. 1801);

15 “(C) the term ‘covered record’ means a
16 record or other information that—

17 “(i) pertains to a covered person; and

18 “(ii) is—

19 “(I) a record or other informa-
20 tion described in the matter preceding
21 paragraph (1) of subsection (e);

22 “(II) the contents of a commu-
23 nication; or

24 “(III) location information;

1 “(D) the term ‘electronic device’ has the
2 meaning given the term ‘computer’ in section
3 1030(e);

4 “(E) the term ‘illegitimately obtained in-
5 formation’ means a covered record that—

6 “(i) was obtained—

7 “(I) from a provider of an elec-
8 tronic communication service to the
9 public or a provider of a remote com-
10 puting service in a manner that—

11 “(aa) violates the service
12 agreement between the provider
13 and customers or subscribers of
14 the provider; or

15 “(bb) is inconsistent with
16 the privacy policy of the provider;

17 “(II) by deceiving the covered
18 person whose covered record was ob-
19 tained; or

20 “(III) through the unauthorized
21 accessing of an electronic device or
22 online account; or

23 “(ii) was—

24 “(I) obtained from a provider of
25 an electronic communication service to

1 the public, a provider of a remote
2 computing service, or an intermediary
3 service provider; and

4 “(II) collected, processed, or
5 shared in violation of a contract relat-
6 ing to the covered record;

7 “(F) the term ‘intelligence community’ has
8 the meaning given that term in section 3 of the
9 National Security Act of 1947 (50 U.S.C.
10 3003);

11 “(G) the term ‘location information’ means
12 information derived or otherwise calculated
13 from the transmission or reception of a radio
14 signal that reveals the approximate or actual
15 geographic location of a customer, subscriber,
16 or device;

17 “(H) the term ‘obtain in exchange for any-
18 thing of value’ means to obtain by purchasing,
19 to receive in connection with services being pro-
20 vided for consideration, or to otherwise obtain
21 in exchange for consideration, including an ac-
22 cess fee, service fee, maintenance fee, or licens-
23 ing fee;

24 “(I) the term ‘online account’ means an
25 online account with an electronic communica-

1 tion service to the public or remote computing
2 service;

3 “(J) the term ‘pertain’, with respect to a
4 person, means—

5 “(i) information that is linked to the
6 identity of a person; or

7 “(ii) information—

8 “(I) that has been anonymized to
9 remove links to the identity of a per-
10 son; and

11 “(II) that, if combined with other
12 information, could be used to identify
13 a person; and

14 “(K) the term ‘third party’ means a person
15 who—

16 “(i) is not a governmental entity; and

17 “(ii) in connection with the collection,
18 disclosure, obtaining, processing, or shar-
19 ing of the covered record at issue, was not
20 acting as—

21 “(I) a provider of an electronic
22 communication service to the public;
23 or

24 “(II) a provider of a remote com-
25 puting service.

1 “(2) LIMITATION.—

2 “(A) IN GENERAL.—A law enforcement
3 agency of a governmental entity and an element
4 of the intelligence community may not obtain
5 from a third party in exchange for anything of
6 value a covered customer or subscriber record
7 or any illegitimately obtained information.

8 “(B) INDIRECTLY ACQUIRED RECORDS
9 AND INFORMATION.—The limitation under sub-
10 paragraph (A) shall apply without regard to
11 whether the third party possessing the covered
12 customer or subscriber record or illegitimately
13 obtained information is the third party that ini-
14 tially obtained or collected, or is the third party
15 that initially received the disclosure of, the cov-
16 ered customer or subscriber record or illegit-
17 imately obtained information.

18 “(3) LIMIT ON SHARING BETWEEN AGEN-
19 CIES.—An agency of a governmental entity that is
20 not a law enforcement agency or an element of the
21 intelligence community may not provide to a law en-
22 forcement agency of a governmental entity or an ele-
23 ment of the intelligence community a covered cus-
24 tomer or subscriber record or illegitimately obtained

1 information that was obtained from a third party in
2 exchange for anything of value.

3 “(4) PROHIBITION ON USE AS EVIDENCE.—A
4 covered customer or subscriber record or illegit-
5 imately obtained information obtained by or pro-
6 vided to a law enforcement agency of a governmental
7 entity or an element of the intelligence community in
8 violation of paragraph (2) or (3), and any evidence
9 derived therefrom, may not be received in evidence
10 in any trial, hearing, or other proceeding in or be-
11 fore any court, grand jury, department, officer,
12 agency, regulatory body, legislative committee, or
13 other authority of the United States, a State, or a
14 political subdivision thereof.

15 “(5) MINIMIZATION PROCEDURES.—

16 “(A) IN GENERAL.—The Attorney General
17 shall adopt specific procedures that are reason-
18 ably designed to minimize the acquisition and
19 retention, and prohibit the dissemination, of in-
20 formation pertaining to a covered person that is
21 acquired in violation of paragraph (2) or (3).

22 “(B) USE BY AGENCIES.—If a law enforce-
23 ment agency of a governmental entity or ele-
24 ment of the intelligence community acquires in-
25 formation pertaining to a covered person in vio-

1 lation of paragraph (2) or (3), the law enforce-
2 ment agency of a governmental entity or ele-
3 ment of the intelligence community shall mini-
4 mize the acquisition and retention, and prohibit
5 the dissemination, of the information in accord-
6 ance with the procedures adopted under sub-
7 paragraph (A).”.

8 **SEC. 19. REQUIRED DISCLOSURE.**

9 Section 2703 of title 18, United States Code, is
10 amended by adding at the end the following:

11 “(i) COVERED CUSTOMER OR SUBSCRIBER RECORDS
12 AND ILLEGITIMATELY OBTAINED INFORMATION.—

13 “(1) DEFINITIONS.—In this subsection, the
14 terms ‘covered customer or subscriber record’, ‘ille-
15 gitimately obtained information’, and ‘third party’
16 have the meanings given such terms in section
17 2702(e).

18 “(2) LIMITATION.—Unless a governmental enti-
19 ty obtains an order in accordance with paragraph
20 (3), the governmental entity may not require a third
21 party to disclose a covered customer or subscriber
22 record or any illegitimately obtained information if a
23 court order would be required for the governmental
24 entity to require a provider of remote computing
25 service or a provider of electronic communication

1 service to the public to disclose such a covered cus-
2 tomer or subscriber record or illegitimately obtained
3 information that is a record of a customer or sub-
4 scribe of the provider.

5 “(3) ORDERS.—

6 “(A) IN GENERAL.—A court may only
7 issue an order requiring a third party to dis-
8 close a covered customer or subscriber record or
9 any illegitimately obtained information on the
10 same basis and subject to the same limitations
11 as would apply to a court order to require dis-
12 closure by a provider of remote computing serv-
13 ice or a provider of electronic communication
14 service to the public of a record of a customer
15 or subscriber of the provider.

16 “(B) STANDARD.—For purposes of sub-
17 paragraph (A), a court shall apply the most
18 stringent standard under Federal statute or the
19 Constitution of the United States that would be
20 applicable to a request for a court order to re-
21 quire a comparable disclosure by a provider of
22 remote computing service or a provider of elec-
23 tronic communication service to the public of a
24 record of a customer or subscriber of the pro-
25 vider.”.

1 **SEC. 20. INTERMEDIARY SERVICE PROVIDERS.**

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

4 (1) in paragraph (3), by striking “and” at the
5 end;

6 (2) in paragraph (4), by striking the period at
7 the end and inserting “; and”; and

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

9 “(5) the term ‘intermediary service provider’
10 means an entity or facilities owner or operator that
11 directly or indirectly delivers, stores, or processes
12 communications for or on behalf of a provider of
13 electronic communication service to the public or a
14 provider of remote computing service.”.

15 (b) PROHIBITION.—Section 2702(a) of title 18,
16 United States Code, is amended—

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

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

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

23 (4) by adding at the end the following:

24 “(4) an intermediary service provider shall not
25 knowingly divulge—

1 “(A) to any person or entity the contents
2 of a communication while in electronic storage
3 by that provider; or

4 “(B) to any governmental entity a record
5 or other information pertaining to a subscriber
6 to or customer of, a recipient of a communica-
7 tion from a subscriber to or customer of, or the
8 sender of a communication to a subscriber to or
9 customer of, the provider of electronic commu-
10 nication service to the public or the provider of
11 remote computing service for, or on behalf of,
12 which the intermediary service provider directly
13 or indirectly delivers, transmits, stores, or proc-
14 esses communications.”.

15 **SEC. 21. LIMITS ON SURVEILLANCE CONDUCTED FOR FOR-**
16 **EIGN INTELLIGENCE PURPOSES OTHER**
17 **THAN UNDER THE FOREIGN INTELLIGENCE**
18 **SURVEILLANCE ACT OF 1978.**

19 (a) IN GENERAL.—Section 2511(2)(f) of title 18,
20 United States Code, is amended to read as follows:

21 “(f)(i)(A) Nothing contained in this chapter, chapter
22 121 or 206 of this title, or section 705 of the Communica-
23 tions Act of 1934 (47 U.S.C. 151 et seq.) shall be deemed
24 to affect an acquisition or activity described in clause (B)
25 that is carried out utilizing a means other than electronic

1 surveillance, as defined in section 101 of the Foreign In-
2 telligence Surveillance Act of 1978 (50 U.S.C. 1801).

3 “(B) An acquisition or activity described in this
4 clause is—

5 “(I) an acquisition by the United States Gov-
6 ernment of foreign intelligence information from
7 international or foreign communications that—

8 “(aa) is acquired pursuant to express stat-
9 utory authority; or

10 “(bb) only includes information of persons
11 who are not United States persons and are lo-
12 cated outside the United States; or

13 “(II) a foreign intelligence activity involving a
14 foreign electronic communications system that—

15 “(aa) is conducted pursuant to express
16 statutory authority; or

17 “(bb) only involves the acquisition by the
18 United States Government of information of
19 persons who are not United States persons and
20 are located outside the United States.

21 “(ii) The procedures in this chapter, chapter 121,
22 and the Foreign Intelligence Surveillance Act of 1978 (50
23 U.S.C. 1801 et seq.) shall be the exclusive means by which
24 electronic surveillance, as defined in section 101 of such

1 Act, and the interception of domestic wire, oral, and elec-
2 tronic communications may be conducted.”.

3 (b) EXCLUSIVE MEANS RELATED TO COMMUNICA-
4 TIONS RECORDS.—The Foreign Intelligence Surveillance
5 Act of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive
6 means by which electronic communications transactions
7 records, call detail records, or other information from com-
8 munications of United States persons or persons inside the
9 United States are acquired for foreign intelligence pur-
10 poses inside the United States or from a person or entity
11 located in the United States that provides telecommuni-
12 cations, electronic communication, or remote computing
13 services.

14 (c) EXCLUSIVE MEANS RELATED TO LOCATION IN-
15 FORMATION, WEB BROWSING HISTORY, AND INTERNET
16 SEARCH HISTORY.—

17 (1) DEFINITION.—In this subsection, the term
18 “location information” has the meaning given that
19 term in subsection (e) of section 2702 of title 18,
20 United States Code, as added by section 2 of this
21 Act.

22 (2) EXCLUSIVE MEANS.—Title I and sections
23 303, 304, 703, 704, and 705 of the Foreign Intel-
24 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et
25 seq., 1823, 1824, 1881b, 1881c, 1881d) shall be the

1 exclusive means by which location information, web
2 browsing history, and internet search history of
3 United States persons or persons inside the United
4 States are acquired for foreign intelligence purposes
5 inside the United States or from a person or entity
6 located in the United States.

7 (d) EXCLUSIVE MEANS RELATED TO FOURTH
8 AMENDMENT-PROTECTED INFORMATION.—Title I and
9 sections 303, 304, 703, 704, and 705 of the Foreign Intel-
10 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.,
11 1823, 1824, 1881b, 1881c, 1881d) shall be the exclusive
12 means by which any information, records, data, or tangible
13 things are acquired for foreign intelligence purposes from
14 a person or entity located in the United States if the com-
15 pelled production of such information, records, data, or
16 tangible things would require a warrant for law enforce-
17 ment purposes.

18 (e) DEFINITION.—In this section, the term “United
19 States person” has the meaning given that term in section
20 101 of the Foreign Intelligence Surveillance Act of 1978
21 (50 U.S.C. 1801).

1 **SEC. 22. LIMIT ON CIVIL IMMUNITY FOR PROVIDING INFOR-**
2 **MATION, FACILITIES, OR TECHNICAL ASSIST-**
3 **ANCE TO THE GOVERNMENT ABSENT A**
4 **COURT ORDER.**

5 Section 2511(2)(a) of title 18, United States Code,
6 is amended—

7 (1) in subparagraph (ii), by striking clause (B)
8 and inserting the following:

9 “(B) a certification in writing—

10 “(I) by a person specified in section
11 2518(7) or the Attorney General of the United
12 States;

13 “(II) that the requirements for an emer-
14 gency authorization to intercept a wire, oral, or
15 electronic communication under section 2518(7)
16 have been met; and

17 “(III) that the specified assistance is re-
18 quired,”; and

19 (2) by striking subparagraph (iii) and inserting
20 the following:

21 “(iii) For assistance provided pursuant to a certifi-
22 cation under subparagraph (ii)(B), the limitation on
23 causes of action under the last sentence of the matter fol-
24 lowing subparagraph (ii)(B) shall only apply to the extent
25 that the assistance ceased at the earliest of the time the
26 application for a court order was denied, the time the com-

1 munication sought was obtained, or 48 hours after the
2 interception began.”.