



**H.R. 3361, the USA FREEDOM Act
Amendment in the Nature of a Substitute
Section-by-Section**

Title I – FISA Business Record Reforms

Sec. 101 – Additional requirements for call detail records.

Creates a new process for the collection of call detail records pursuant to the Administration’s proposal. For counterterrorism purposes only, when the government has reasonable articulable suspicion that a specific selection term is associated with a foreign power or an agent of a foreign power, it may apply to the FISA court for an order requiring the ongoing production of call detail records related to that specific selection term and two “hops” removed. The government may renew these orders every 180 days.

The term “call detail records” is defined to mean a telephone number, an IMSI or IMSEI number, a telephone calling card number, or the time or duration of a call. The term does not include the contents of any communication; nor does it include names, addresses, or financial information; nor does it include cell site location information.

Except for records that remain relevant to an authorized counterterrorism investigation, the government is required to destroy all information obtained under this program within five years of production.

Sec. 102 – Emergency authority.

Creates a new emergency authority for the use of Section 215. The Attorney General may authorize the emergency production of tangible things, provided that such an application is presented to the court within seven days. If the court denies an emergency application, the government may not use any of the information obtained under the emergency authority except in instances of a threat of death or serious bodily harm.

Sec. 103 – Prohibition on bulk collection of tangible things.

Provides that Section 215 may only be used where a specific selection term is provided as the basis for the production of tangible things. No order issued under Section 215 may authorize the bulk collection of tangible things.

Sec. 104 – Judicial review of minimization procedures for the production of tangible things.

Provides that the court may evaluate the adequacy of minimization procedures under Section 215. Under current law, the court is only empowered to determine whether or not the government has minimization procedures in place.

Sec. 105 – Liability protection.

Amends the liability protections to third parties who provide information, facilities, or technical assistance to the government in compliance with an order issued under Section 215. This provision mirrors the liability provisions in Titles I and VII of FISA.

Sec. 106 – Compensation for assistance.

Explicitly permits the government to compensate third parties for producing tangible things or providing information, facilities, or assistance in accordance with an order issued under Section 215.

Sec. 107 – Inspector general reports on business records orders.

Requires the Inspector General of the Department of Justice to conduct a comprehensive review of the use of Section 215 with respect to calendar years 2012 to 2014. Also requires the Inspector General of the Intelligence Community to assess the value and use of intelligence obtained under Section 215 over the same period.

Sec. 108 – Effective date.

Provides that the new telephone metadata program, the new Section 215 emergency authority, and the prohibition on bulk collection of tangible things under Section 215 take effect 180 days after enactment.

Title II – FISA Pen Register and Trap and Trace Device Reform

Sec. 201 – Prohibition on bulk collection.

Provides that the pen register and trap and trace device authority may not be used without a specific selection term as the basis for selecting the telephone line or other facility to which the pen register or trap and trace devices is to be attached or applied.

Sec. 202 – Minimization procedures.

Requires that the government adopt procedures that are reasonably designed to minimize the retention and prohibit the dissemination of nonpublic information about United States persons. Explicitly authorizes the court to assess compliance with these procedures while a pen register or trap and trace device is in use.

Title III – FISA Acquisitions Targeting Persons Outside the United States Reforms

Sec. 301 – Prohibition on reverse targeting.

Clarifies the prohibition on reverse targeting by providing that the government may not intentionally target a person under Section 702 if a purpose of the acquisition is to target a person reasonably believed to be in the United States.

Sec. 302 – Minimization procedures.

Codifies the requirement that the government must minimize the acquisition, and prohibit the retention and dissemination of, wholly domestic communications captured under Section 702.

Sec. 303 – Limits on use of unlawfully obtained information.

Provides that the government may not use information acquired outside the scope of court-approved targeting and minimization procedures.

Title IV – Foreign Intelligence Surveillance Court Reforms

Sec. 401 – Appointment of amicus curiae.

Provides that both the FISA court and the FISA Court of Review shall, if deemed appropriate, appoint an individual to serve as amicus curiae in a case involving a novel or significant interpretation of law. Permits the court to appoint amicus curiae in any case.

The presiding judges of the courts will designate five individuals who are eligible to serve as amicus curiae. These individuals shall possess expertise in privacy and civil liberties, intelligence collection, telecommunications, or any other area of law that may lend legal or technical expertise to the courts, and shall possess appropriate security clearances.

Sec. 402 – Declassification of decisions, orders, and opinions.

Requires the Attorney General to conduct a declassification review of each decision, order, or opinion of the FISA court that includes a significant construction or interpretation of law. In the interest of national security, the Attorney General may provide a summary of the decision rather than a declassified copy.

Title V – National Security Letter Reform

Sec. 501 – Prohibition on bulk collection.

Prohibits the use of various national security letter authorities without the use of a specific selection term as the basis for the national security letter request.

Title VI – FISA Transparency and Reporting Requirements

Sec. 601 – Additional reporting on orders requiring production of business records.

In addition to existing annual reporting requirements, requires the government to report on the number of requests made for call detail records under the new telephone metadata program.

Sec. 602 – Business records compliance reports to Congress.

Requires the government to provide to Congress any compliance reports related to the use of Section 215.

Sec. 603 – Annual report by the Director of the Administrative Office of the United States Courts on orders Entered.

Requires the Director of the Administrative Office of the United States Court to make an annual report on the number of orders issued under sections 105, 304, 402, 501, 702, 703, and 704 of FISA, as well as the number of appointments of individuals to serve as amicus curiae to the FISA court.

Sec. 604 – Reporting requirements for decisions of the Foreign Intelligence Surveillance Court.

Requires the Attorney General to provide to the relevant committees, within 45 days of each decision, order, or opinion that includes a significant construction or interpretation, a copy of each such decision and a brief statement of the relevant background.

Sec. 605 – Submission of reports under FISA.

Includes the House Judiciary Committee in several existing reporting requirements.

Title VII – Sunsets

Sec. 701 – USA PATRIOT Improvement and Reauthorization Act of 2005.

Aligns the sunset of the three sun-setting provisions of the USA PATRIOT Act with the sunset of the FISA Amendment Act on December 31, 2017.

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3361
OFFERED BY MR. SENSENBRENNER OF
WISCONSIN**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Uniting and Strengthening America by Fulfilling Rights
4 and Ending Eavesdropping, Dragnet-collection, and On-
5 line Monitoring Act” or the “USA FREEDOM Act”.

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

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

TITLE I—FISA BUSINESS RECORDS REFORMS

- Sec. 101. Additional requirements for call detail records.
- Sec. 102. Emergency authority.
- Sec. 103. Prohibition on bulk collection of tangible things.
- Sec. 104. Judicial review of minimization procedures for the production of tangible things.
- Sec. 105. Liability protection.
- Sec. 106. Compensation for assistance.
- Sec. 107. Inspector general reports on business records orders.
- Sec. 108. Effective date.

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

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

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

- Sec. 301. Prohibition on reverse targeting.
- Sec. 302. Minimization procedures.
- Sec. 303. Limits on use of unlawfully obtained information.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT
REFORMS

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

TITLE V—NATIONAL SECURITY LETTER REFORM

- Sec. 501. Prohibition on bulk collection.

TITLE VI—FISA TRANSPARENCY AND REPORTING
REQUIREMENTS

- Sec. 601. Additional reporting on orders requiring production of business records.
- Sec. 602. Business records compliance reports to Congress.
- Sec. 603. Annual report by the Director of the Administrative Office of the United States Courts on orders entered.
- Sec. 604. Reporting requirements for decisions of the Foreign Intelligence Surveillance Court.
- Sec. 605. Submission of reports under FISA.

TITLE VII—SUNSETS

- Sec. 701. USA PATRIOT Improvement and Reauthorization Act of 2005.

1 SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE
2 SURVEILLANCE ACT OF 1978.

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

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

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

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

7 (1) in subparagraph (A)—

8 (A) in the matter preceding clause (i), by
9 striking “a statement” and inserting “in the
10 case of an application other than an application
11 described in subparagraph (C), a statement”;
12 and

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

15 (2) by redesignating subparagraphs (A) and
16 (B) as subparagraphs (B) and (D), respectively; and

17 (3) by inserting after subparagraph (B) (as so
18 redesignated) the following new subparagraph:

19 “(C) in the case of an application for the
20 production of call detail records created on or
21 after the date of the application, a statement of
22 facts showing that—

23 “(i) there are reasonable grounds to
24 believe that the call detail records sought
25 to be produced based on the specific selec-

1 tion term required under subparagraph (A)
2 are relevant to an authorized investigation
3 (other than a threat assessment) conducted
4 in accordance with subsection (a)(2) to
5 protect against international terrorism;
6 and

7 “(ii) there are facts giving rise to a
8 reasonable, articulable suspicion that such
9 specific selection term is associated with a
10 foreign power or an agent of a foreign
11 power; and”.

12 (b) ORDER.—Section 501(c)(2) (50 U.S.C.
13 1861(c)(2)) is amended—

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

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

18 (3) by adding at the end the following new sub-
19 paragraph:

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

22 “(i) authorize the production of call
23 detail records for a period not to exceed
24 180 days;

1 “(ii) provide that an order for such
2 production may be extended upon applica-
3 tion under subsection (b) and the judicial
4 finding under paragraph (1);

5 “(iii) provide that the Government
6 may require the production of call detail
7 records—

8 “(I) using the specific selection
9 term that satisfies the standard re-
10 quired under subsection (b)(2)(C)(ii)
11 as the basis for production;

12 “(II) using the results of the pro-
13 duction under subclause (I) as the
14 basis for production; and

15 “(III) using the results of the
16 production under subclause (II) as the
17 basis for production;

18 “(iv) direct each person the Govern-
19 ment directs to produce call detail records
20 under the order to furnish the Government
21 forthwith all information, facilities, or
22 technical assistance necessary to accom-
23 plish the production in such a manner as
24 will protect the secrecy of the production
25 and produce a minimum of interference

1 with the services that such person is pro-
2 viding to each subject of the production;
3 and

4 “(v) direct the Government to destroy
5 all call detail records produced under the
6 order not later than 5 years after the date
7 of the production of such records, except
8 for records that are relevant to an author-
9 ized investigation (other than a threat as-
10 sessment) conducted in accordance with
11 subsection (a)(2) to protect against inter-
12 national terrorism.”.

13 (c) DEFINITION.—Section 501 (50 U.S.C. 1861) is
14 amended by adding at the end the following new sub-
15 section:

16 “(k) CALL DETAIL RECORD DEFINED.—In this sec-
17 tion, the term ‘call detail record’—

18 “(1) means session identifying information (in-
19 cluding originating or terminating telephone num-
20 ber, International Mobile Subscriber Identity num-
21 ber, or International Mobile Station Equipment
22 Identity number), a telephone calling card number,
23 or the time or duration of a call; and

24 “(2) does not include—

1 “(A) the contents of any communication
2 (as defined in section 2510(8) of title 18,
3 United States Code);

4 “(B) the name, address, or financial infor-
5 mation of a subscriber or customer; or

6 “(C) cell site location information.”.

7 **SEC. 102. EMERGENCY AUTHORITY.**

8 (a) **AUTHORITY.**—Section 501 (50 U.S.C. 1861), as
9 amended by section 101(c), is further amended by insert-
10 ing after subsection (h) the following new subsection:

11 “(i) **EMERGENCY AUTHORITY FOR PRODUCTION OF**
12 **TANGIBLE THINGS.**—

13 “(1) Notwithstanding any other provision of
14 this section, the Attorney General may require the
15 emergency production of tangible things if the Attor-
16 ney General—

17 “(A) reasonably determines that an emer-
18 gency situation requires the production of tan-
19 gible things to obtain information for an au-
20 thorized investigation (other than a threat as-
21 sessment) conducted in accordance with sub-
22 section (a)(2) to protect against international
23 terrorism before an order authorizing such pro-
24 duction can with due diligence be obtained;

1 “(B) reasonably determines that the fac-
2 tual basis for the issuance of an order under
3 this section to approve such production of tan-
4 gible things exists;

5 “(C) informs, either personally or through
6 a designee, a judge having jurisdiction under
7 this section at the time the Attorney General
8 requires the emergency production of tangible
9 things that the decision has been made to em-
10 ploy the authority under this subsection; and

11 “(D) makes an application in accordance
12 with this section to a judge having jurisdiction
13 under this section as soon as practicable, but
14 not later than 7 days after the Attorney Gen-
15 eral requires the emergency production of tan-
16 gible things under this subsection.

17 “(2) If the Attorney General authorizes the
18 emergency production of tangible things under para-
19 graph (1), the Attorney General shall require that
20 the minimization procedures required by this section
21 for the issuance of a judicial order be followed.

22 “(3) In the absence of a judicial order approv-
23 ing the production of tangible things under this sub-
24 section, the production shall terminate when the in-
25 formation sought is obtained, when the application

1 for the order is denied, or after the expiration of 7
2 days from the time the Attorney General begins re-
3 quiring the emergency production of such tangible
4 things, whichever is earliest.

5 “(4) A denial of the application made under
6 this subsection may be reviewed as provided in this
7 section.

8 “(5) If such application for approval is denied,
9 or in any other case where the production of tangible
10 things is terminated and no order is issued approv-
11 ing the production, no information obtained or evi-
12 dence derived from such production shall be received
13 in evidence or otherwise disclosed in any trial, hear-
14 ing, or other proceeding in or before any court,
15 grand jury, department, office, agency, regulatory
16 body, legislative committee, or other authority of the
17 United States, a State, or political subdivision there-
18 of, and no information concerning any United States
19 person acquired from such production shall subse-
20 quently be used or disclosed in any other manner by
21 Federal officers or employees without the consent of
22 such person, except with the approval of the Attor-
23 ney General if the information indicates a threat of
24 death or serious bodily harm to any person.

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

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

5 (1) in paragraph (1)—

6 (A) in the matter preceding subparagraph
7 (A), by striking “pursuant to an order” and in-
8 serting “pursuant to an order issued or an
9 emergency production required”;

10 (B) in subparagraph (A), by striking “such
11 order” and inserting “such order or such emer-
12 gency production”; and

13 (C) in subparagraph (B), by striking “the
14 order” and inserting “the order or the emer-
15 gency production”; and

16 (2) in paragraph (2)—

17 (A) in subparagraph (A), by striking “an
18 order” and inserting “an order or emergency
19 production”; and

20 (B) in subparagraph (B), by striking “an
21 order” and inserting “an order or emergency
22 production”.

1 **SEC. 103. PROHIBITION ON BULK COLLECTION OF TAN-**
2 **GIBLE THINGS.**

3 (a) APPLICATION.—Section 501(b)(2) (50 U.S.C.
4 1861(b)(2)), as amended by section 101(a), is further
5 amended by inserting before subparagraph (B), as redes-
6 ignated by such section 101(a), the following new subpara-
7 graph:

8 “(A) a specific selection term to be used as
9 the basis for the production of the tangible
10 things sought;”.

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

13 (1) in paragraph (2)(A), by striking the semi-
14 colon and inserting “, including each specific selec-
15 tion term to be used as the basis for the produc-
16 tion;”; and

17 (2) by adding at the end the following new
18 paragraph:

19 “(3) No order issued under this subsection may au-
20 thorize the collection of tangible things without the use
21 of a specific selection term that meets the requirements
22 of subsection (b)(2).”.

1 **SEC. 104. JUDICIAL REVIEW OF MINIMIZATION PROCE-**
2 **DURES FOR THE PRODUCTION OF TANGIBLE**
3 **THINGS.**

4 Section 501(c)(1) (50 U.S.C. 1861(c)(1)) is amended
5 by inserting after “subsections (a) and (b)” the following:
6 “and that the minimization procedures submitted in ac-
7 cordance with subsection (b)(2)(D) meet the definition of
8 minimization procedures under subsection (g)”.

9 **SEC. 105. LIABILITY PROTECTION.**

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

12 “(e) No cause of action shall lie in any court against
13 a person who produces tangible things or provides infor-
14 mation, facilities, or technical assistance pursuant to an
15 order issued or an emergency production required under
16 this section. Such production shall not be deemed to con-
17 stitute a waiver of any privilege in any other proceeding
18 or context.”.

19 **SEC. 106. COMPENSATION FOR ASSISTANCE.**

20 Section 501 (50 U.S.C. 1861), as amended by section
21 102 of this Act, is further amended by inserting after sub-
22 section (i), as added by such section 102, the following
23 new subsection:

24 “(j) **COMPENSATION.**—The Government shall com-
25 pensate, at the prevailing rate, a person for producing tan-
26 gible things or providing information, facilities, or assist-

1 ance in accordance with an order issued or an emergency
2 production required under this section.”.

3 **SEC. 107. INSPECTOR GENERAL REPORTS ON BUSINESS**
4 **RECORDS ORDERS.**

5 Section 106A of the USA PATRIOT Improvement
6 and Reauthorization Act of 2005 (Public Law 109–177;
7 120 Stat. 200) is amended—

8 (1) in subsection (b)—

9 (A) in paragraph (1), by inserting “and
10 calendar years 2012 through 2014” after
11 “2006”;

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

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

15 (D) in paragraph (3) (as so redesign-
16 nated)—

17 (i) by striking subparagraph (C) and
18 inserting the following new subparagraph:

19 “(C) with respect to calendar years 2012
20 through 2014, an examination of the minimiza-
21 tion procedures used in relation to orders under
22 section 501 of the Foreign Intelligence Surveil-
23 lance Act of 1978 (50 U.S.C. 1861) and wheth-
24 er the minimization procedures adequately pro-

1 tect the constitutional rights of United States
2 persons;” and

3 (ii) in subparagraph (D), by striking
4 “(as such term is defined in section 3(4) of
5 the National Security Act of 1947 (50
6 U.S.C. 401a(4))”;

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

9 “(3) CALENDAR YEARS 2012 THROUGH
10 2014.—Not later than December 31, 2015, the In-
11 spector General of the Department of Justice shall
12 submit to the Committee on the Judiciary and the
13 Select Committee on Intelligence of the Senate and
14 the Committee on the Judiciary and the Permanent
15 Select Committee on Intelligence of the House of
16 Representatives a report containing the results of
17 the audit conducted under subsection (a) for cal-
18 endar years 2012 through 2014.”;

19 (3) by redesignating subsections (d) and (e) as
20 subsections (e) and (f), respectively;

21 (4) by inserting after subsection (c) the fol-
22 lowing new subsection:

23 “(d) INTELLIGENCE ASSESSMENT.—

24 “(1) IN GENERAL.—For the period beginning
25 on January 1, 2012, and ending on December 31,

1 2014, the Inspector General of the Intelligence Com-
2 munity shall assess—

3 “(A) the importance of the information ac-
4 quired under title V of the Foreign Intelligence
5 Surveillance Act of 1978 (50 U.S.C. 1861 et
6 seq.) to the activities of the intelligence commu-
7 nity;

8 “(B) the manner in which that information
9 was collected, retained, analyzed, and dissemi-
10 nated by the intelligence community;

11 “(C) the minimization procedures used by
12 elements of the intelligence community under
13 such title and whether the minimization proce-
14 dures adequately protect the constitutional
15 rights of United States persons; and

16 “(D) any minimization procedures pro-
17 posed by an element of the intelligence commu-
18 nity under such title that were modified or de-
19 nied by the court established under section
20 103(a) of such Act (50 U.S.C. 1803(a)).

21 “(2) SUBMISSION DATE FOR ASSESSMENT.—

22 Not later than December 31, 2015, the Inspector
23 General of the Intelligence Community shall submit
24 to the Committee on the Judiciary and the Select
25 Committee on Intelligence of the Senate and the

1 Committee on the Judiciary and the Permanent Se-
2 lect Committee on Intelligence of the House of Rep-
3 resentatives a report containing the results of the
4 assessment for calendar years 2012 through 2014.”;

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

7 (A) in paragraph (1)—

8 (i) by striking “a report under sub-
9 section (c)(1) or (c)(2)” and inserting “any
10 report under subsection (c) or (d)”;

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

22 (B) in paragraph (2), by striking “the re-
23 ports submitted under subsections (c)(1) and
24 (c)(2)” and inserting “any report submitted
25 under subsection (c) or (d)”;

1 (6) in subsection (f), as redesignated by para-
2 graph (3)—

3 (A) by striking “The reports submitted
4 under subsections (c)(1) and (c)(2)” and insert-
5 ing “Each report submitted under subsection
6 (c)”;

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

9 (7) by adding at the end the following new sub-
10 section:

11 “(g) DEFINITIONS.—In this section:

12 “(1) INTELLIGENCE COMMUNITY.—The term
13 ‘intelligence community’ has the meaning given that
14 term in section 3 of the National Security Act of
15 1947 (50 U.S.C. 3003).

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

20 **SEC. 108. EFFECTIVE DATE.**

21 The amendments made by sections 101 through 103
22 shall take effect on the date that is 180 days after the
23 date of the enactment of this Act.

1 **TITLE II—FISA PEN REGISTER**
2 **AND TRAP AND TRACE DE-**
3 **VICE REFORM**

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

5 Section 402(c) (50 U.S.C. 1842(c)) is amended—

6 (1) in paragraph (1), by striking “; and” and
7 inserting a semicolon;

8 (2) in paragraph (2), by striking the period and
9 inserting a semicolon; and

10 (3) by adding at the end the following new
11 paragraph:

12 “(3) a specific selection term to be used as the
13 basis for selecting the telephone line or other facility
14 to which the pen register or trap and trace device
15 is to be attached or applied; and”.

16 **SEC. 202. MINIMIZATION PROCEDURES.**

17 (a) DEFINITION.—Section 401 (50 U.S.C. 1841) is
18 amended by adding at the end the following new para-
19 graph:

20 “(4) The term ‘minimization procedures’
21 means—

22 “(A) specific procedures that are reason-
23 ably designed in light of the purpose and tech-
24 nique of an order for the installation and use
25 of a pen register or trap and trace device to

1 minimize the retention and prohibit the dissemi-
2 nation of nonpublicly available information con-
3 cerning unconsenting United States persons
4 consistent with the need of the United States to
5 obtain, produce, and disseminate foreign intel-
6 ligence information;

7 “(B) procedures that require that nonpub-
8 licly available information, which is not foreign
9 intelligence information, as defined in section
10 101(e)(1), shall not be disseminated in a man-
11 ner that identifies any United States person,
12 without such person’s consent, unless such per-
13 son’s identity is necessary to understand foreign
14 intelligence information or assess its impor-
15 tance; and

16 “(C) notwithstanding subparagraphs (A)
17 and (B), procedures that allow for the retention
18 and dissemination of information that is evi-
19 dence of a crime which has been, is being, or
20 is about to be committed and that is to be re-
21 tained or disseminated for law enforcement pur-
22 poses.”.

23 (b) APPLICATION.—Section 402(c) (50 U.S.C.
24 1842(c)), as amended by section 201 of this Act, is further

1 amended by adding at the end the following new para-
2 graph:

3 “(4) a statement of proposed minimization pro-
4 cedures.”.

5 (c) ORDER.—Section 402(d) (50 U.S.C. 1842(d)) is
6 amended—

7 (1) in paragraph (1), by inserting “and that the
8 proposed minimization procedures meet the defini-
9 tion of minimization procedures under this title” be-
10 fore the period at the end; and

11 (2) in paragraph (2)(B)—

12 (A) in clause (ii)(II), by striking “; and”
13 and inserting a semicolon; and

14 (B) by adding at the end the following new
15 clause:

16 “(iv) the minimization procedures be
17 followed; and”.

18 (d) COMPLIANCE ASSESSMENT.—Section 402 (50
19 U.S.C. 1842) is amended by adding at the end the fol-
20 lowing new subsection:

21 “(h) At or before the end of the period of time for
22 which the installation and use of a pen register or trap
23 and trace device is approved under an order or an exten-
24 sion under this section, the judge may assess compliance
25 with the minimization procedures by reviewing the cir-

1 cumstances under which information concerning United
2 States persons was retained or disseminated.”.

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

7 **SEC. 301. PROHIBITION ON REVERSE TARGETING.**

8 Section 702(b)(2) (50 U.S.C. 1881a(b)(2)) is amend-
9 ed by striking “the purpose” and inserting “a purpose”.

10 **SEC. 302. MINIMIZATION PROCEDURES.**

11 Section 702(e)(1) (50 U.S.C. 1881a(e)(1)) is amend-
12 ed—

13 (1) by striking “that meet” and inserting the
14 following: “that—

15 “(A) meet”;

16 (2) in subparagraph (A) (as designated by
17 paragraph (1) of this section), by striking the period
18 and inserting “; and”; and

19 (3) by adding at the end the following new sub-
20 paragraph:

21 “(B) consistent with such definition, mini-
22 mize the acquisition, and prohibit the retention
23 and dissemination, of any communication as to
24 which the sender and all intended recipients are
25 determined to be located in the United States

1 and prohibit the use of any discrete, non-target
2 communication that is determined to be to or
3 from a United States person or a person who
4 appears to be located in the United States, ex-
5 cept to protect against an immediate threat to
6 human life.”.

7 **SEC. 303. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-**
8 **FORMATION.**

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

11 “(D) LIMITATION ON USE OF INFORMA-
12 TION.—

13 “(i) IN GENERAL.—Except as pro-
14 vided in clause (ii), no information ob-
15 tained or evidence derived from an acquisi-
16 tion pursuant to a certification or tar-
17 geting or minimization procedures subject
18 to an order under subparagraph (B) con-
19 cerning any United States person shall be
20 received in evidence or otherwise disclosed
21 in any trial, hearing, or other proceeding
22 in or before any court, grand jury, depart-
23 ment, office, agency, regulatory body, legis-
24 lative committee, or other authority of the
25 United States, a State, or political subdivi-

1 sion thereof, and no information con-
2 cerning any United States person acquired
3 from the acquisition shall subsequently be
4 used or disclosed in any other manner by
5 Federal officers or employees without the
6 consent of the United States person, ex-
7 cept with the approval of the Attorney
8 General if the information indicates a
9 threat of death or serious bodily harm to
10 any person.

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

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

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

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

25 “(i) AMICUS CURIAE.—

1 “(1) AUTHORIZATION.—A court established
2 under subsection (a) or (b), consistent with the re-
3 quirement of subsection (c) and any other statutory
4 requirement that the court act expeditiously or with-
5 in a stated time—

6 “(A) shall appoint an individual to serve as
7 amicus curiae to assist such court in the consid-
8 eration of any application for an order or review
9 that, in the opinion of the court, presents a
10 novel or significant interpretation of the law,
11 unless the court issues a written finding that
12 such appointment is not appropriate; and

13 “(B) may appoint an individual to serve as
14 amicus curiae in any other instance as such
15 court deems appropriate.

16 “(2) DESIGNATION.—The presiding judges of
17 the courts established under subsections (a) and (b)
18 shall jointly designate not less than 5 individuals to
19 be eligible to serve as amicus curiae. Such individ-
20 uals shall be persons who possess expertise in pri-
21 vacy and civil liberties, intelligence collection, tele-
22 communications, or any other area of law that may
23 lend legal or technical expertise to the courts and
24 who have been determined by appropriate executive

1 branch officials to be eligible for access to classified
2 information.

3 “(3) DUTIES.—An individual appointed to serve
4 as amicus curiae under paragraph (1) shall carry
5 out the duties assigned by the appointing court.
6 Such court may authorize the individual appointed
7 to serve as amicus curiae to review any application,
8 certification, petition, motion, or other submission
9 that the court determines is relevant to the duties
10 assigned by the court.

11 “(4) NOTIFICATION.—The presiding judges of
12 the courts established under subsections (a) and (b)
13 shall notify the Attorney General of each exercise of
14 the authority to appoint an individual to serve as
15 amicus curiae under paragraph (1).

16 “(5) ASSISTANCE.—A court established under
17 subsection (a) or (b) may request and receive (in-
18 cluding on a non-reimbursable basis) the assistance
19 of the executive branch in the implementation of this
20 subsection.

21 “(6) ADMINISTRATION.—A court established
22 under subsection (a) or (b) may provide for the des-
23 ignation, appointment, removal, training, or other
24 support for an individual appointed to serve as ami-

1 cus curiae under paragraph (1) in a manner that is
2 not inconsistent with this subsection.”.

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

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

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

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

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

14 “(a) DECLASSIFICATION REQUIRED.—Subject to
15 subsection (b), the Attorney General shall conduct a de-
16 classification review of each decision, order, or opinion
17 issued by the Foreign Intelligence Surveillance Court or
18 the Foreign Intelligence Surveillance Court of Review (as
19 defined in section 601(e)) that includes significant con-
20 struction or interpretation of any provision of this Act
21 and, consistent with that review, make publicly available
22 to the greatest extent practicable each such decision,
23 order, or opinion.

24 “(b) REDACTED FORM.—The Attorney General may
25 satisfy the requirement under subsection (a) to make a

1 decision, order, or opinion described in such subsection
2 publicly available to the greatest extent practicable by
3 making such decision, order, or opinion publicly available
4 in redacted form.

5 “(c) NATIONAL SECURITY WAIVER.—The Attorney
6 General may waive the requirement to declassify and make
7 publicly available a particular decision, order, or opinion
8 under subsection (a) if the Attorney General—

9 “(1) determines that a waiver of such require-
10 ment is necessary to protect the national security of
11 the United States or properly classified intelligence
12 sources or methods; and

13 “(2) makes publicly available an unclassified
14 summary of such decision, order, or opinion.”.

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

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

“TITLE VI—OVERSIGHT”; AND

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

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

1 **TITLE V—NATIONAL SECURITY**
2 **LETTER REFORM**

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

4 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
5 TOLL AND TRANSACTIONAL RECORDS.—Section 2709(b)
6 of title 18, United States Code, is amended in the matter
7 preceding paragraph (1) by striking “may” and inserting
8 “may, using a specific selection term as the basis for a
9 request”.

10 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
11 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
12 1114(a)(2) of the Right to Financial Privacy Act of 1978
13 (12 U.S.C. 3414(a)(2)) by striking the period and insert-
14 ing “and a specific selection term to be used as the basis
15 for the production and disclosure of financial records.”.

16 (c) DISCLOSURES TO FBI OF CERTAIN CONSUMER
17 RECORDS FOR COUNTERINTELLIGENCE PURPOSES.—Sec-
18 tion 626(a) of the Fair Credit Reporting Act (15 U.S.C.
19 1681u(a)) is amended by striking “that information,” and
20 inserting “that information that includes a specific selec-
21 tion term to be used as the basis for the production of
22 that information,”.

23 (d) DISCLOSURES TO GOVERNMENTAL AGENCIES
24 FOR COUNTERTERRORISM PURPOSES OF CONSUMER RE-
25 PORTS.—Section 627(a) of the Fair Credit Reporting Act

1 (15 U.S.C. 1681v(a)) is amended by striking “analysis.”
2 and inserting “analysis and a specific selection term to
3 be used as the basis for the production of such informa-
4 tion.”.

5 **TITLE VI—FISA TRANSPARENCY**
6 **AND REPORTING REQUIRE-**
7 **MENTS**

8 **SEC. 601. ADDITIONAL REPORTING ON ORDERS REQUIRING**
9 **PRODUCTION OF BUSINESS RECORDS.**

10 Section 502(b) (50 U.S.C. 1862(b)) is amended—

11 (1) by redesignating paragraphs (1), (2), and
12 (3) as paragraphs (5), (6), and (7), respectively; and

13 (2) by inserting before paragraph (5) (as so re-
14 designated) the following new paragraphs:

15 “(1) the total number of applications described
16 in section 501(b)(2)(B) made for orders approving
17 requests for the production of tangible things;

18 “(2) the total number of such orders either
19 granted, modified, or denied;

20 “(3) the total number of applications described
21 in section 501(b)(2)(C) made for orders approving
22 requests for the production of call detail records;

23 “(4) the total number of such orders either
24 granted, modified, or denied;”.

1 **SEC. 602. BUSINESS RECORDS COMPLIANCE REPORTS TO**
2 **CONGRESS.**

3 (a) BUSINESS RECORDS PRODUCTIONS.—Section
4 502(b) (50 U.S.C. 1862(b)), as amended by section 601
5 of this Act, is further amended—

6 (1) by redesignating paragraphs (1) through
7 (7) as paragraphs (2) through (8), respectively; and

8 (2) by inserting before paragraph (2) (as so re-
9 designated) the following new paragraph:

10 “(1) any compliance reviews conducted by the
11 Federal Government of the production of tangible
12 things under section 501;”.

13 (b) FISA AUTHORITIES IN GENERAL.—Section
14 601(a) (50 U.S.C. 1871(a)) is amended—

15 (1) in paragraph (4), by striking “; and” and
16 inserting a semicolon;

17 (2) in paragraph (5), by striking the period and
18 inserting “; and”; and

19 (3) by adding at the end the following new
20 paragraph:

21 “(6) any compliance reviews conducted by the
22 Federal Government of electronic surveillance, phys-
23 ical searches, the installation of pen register or trap
24 and trace devices, access to records, or acquisitions
25 conducted under this Act.”.

1 **SEC. 603. ANNUAL REPORT BY THE DIRECTOR OF THE AD-**
2 **MINISTRATIVE OFFICE OF THE UNITED**
3 **STATES COURTS ON ORDERS ENTERED.**

4 (a) IN GENERAL.—Title VI (50 U.S.C. 1871 et seq.),
5 as amended by section 402 of this Act, is further amended
6 by adding at the end the following new section:

7 **“SEC. 603. ANNUAL REPORT ON ORDERS ENTERED.**

8 “The Director of the Administrative Office of the
9 United States Courts shall annually submit to the Perma-
10 nent Select Committee on Intelligence and the Committee
11 on the Judiciary of the House of Representatives and the
12 Select Committee on Intelligence and the Committee on
13 the Judiciary of the Senate and make publicly available
14 on an Internet website—

15 “(1) the number of orders entered under each
16 of sections 105, 304, 402, 501, 702, 703, and 704;

17 “(2) the number of orders modified under each
18 of those sections;

19 “(3) the number of orders denied under each of
20 those sections; and

21 “(4) the number of appointments of an indi-
22 vidual to serve as amicus curiae under section 103,
23 including the name of each individual appointed to
24 serve as amicus curiae.”.

25 (b) TABLE OF CONTENTS AMENDMENT.—The table
26 of contents in the first section, as amended by section 402

1 of this Act, is further amended by inserting after the item
2 relating to section 602, as added by such section 402, the
3 following new item:

“Sec. 603. Annual report on orders entered.”.

4 **SEC. 604. REPORTING REQUIREMENTS FOR DECISIONS OF**
5 **THE FOREIGN INTELLIGENCE SURVEIL-**
6 **LANCE COURT.**

7 Section 601(c)(1) (50 U.S.C. 1871(c)) is amended to
8 read as follows:

9 “(1) not later than 45 days after the date on
10 which the Foreign Intelligence Surveillance Court or
11 the Foreign Intelligence Surveillance Court of Re-
12 view issues a decision, order, or opinion that in-
13 cludes a significant construction or interpretation of
14 any provision of this Act or a denial of a request for
15 an order or a modification of a request for an order,
16 or results in a change of application of any provision
17 of this Act or a new application of any provision of
18 this Act—

19 “(A) a copy of such decision, order, or
20 opinion and any pleadings, applications, or
21 memoranda of law associated with such deci-
22 sion, order, or opinion; and

23 “(B) with respect to such decision, order,
24 or opinion, a brief statement of the relevant

1 background factual information, questions of
2 law, legal analysis, and decision rendered; and”.

3 **SEC. 605. SUBMISSION OF REPORTS UNDER FISA.**

4 (a) **ELECTRONIC SURVEILLANCE.**—Section 108(a)(1)
5 (50 U.S.C. 1808(a)(1)) is amended by striking “the
6 House Permanent Select Committee on Intelligence and
7 the Senate Select Committee on Intelligence, and the
8 Committee on the Judiciary of the Senate,” and inserting
9 “the Permanent Select Committee on Intelligence and the
10 Committee on the Judiciary of the House of Representa-
11 tives and the Select Committee on Intelligence and the
12 Committee on the Judiciary of the Senate”.

13 (b) **PHYSICAL SEARCHES.**—Section 306 (50 U.S.C.
14 1826) is amended—

15 (1) in the first sentence, by striking “Perma-
16 nent Select Committee on Intelligence of the House
17 of Representatives and the Select Committee on In-
18 telligence of the Senate, and the Committee on the
19 Judiciary of the Senate,” and inserting “Permanent
20 Select Committee on Intelligence and the Committee
21 on the Judiciary of the House of Representatives
22 and the Select Committee on Intelligence and the
23 Committee on the Judiciary of the Senate”; and

1 (2) in the second sentence, by striking “and the
2 Committee on the Judiciary of the House of Rep-
3 resentatives”.

4 (c) PEN REGISTER AND TRAP AND TRACE DE-
5 VICES.—Section 406(b) (50 U.S.C. 1846(b)) is amend-
6 ed—

7 (1) in paragraph (2), by striking “; and” and
8 inserting a semicolon;

9 (2) in paragraph (3), by striking the period and
10 inserting a semicolon; and

11 (3) by adding at the end the following new
12 paragraphs:

13 “(4) each department or agency on behalf of
14 which the Government has made application for or-
15 ders approving the use of pen registers or trap and
16 trace devices under this title; and

17 “(5) for each department or agency described in
18 paragraph (4), a breakdown of the numbers required
19 by paragraphs (1), (2), and (3).”.

20 (d) ACCESS TO CERTAIN BUSINESS RECORDS AND
21 OTHER TANGIBLE THINGS.—Section 502(a) (50 U.S.C.
22 1862(a)) is amended by striking “Permanent Select Com-
23 mittee on Intelligence of the House of Representatives and
24 the Select Committee on Intelligence and the Committee
25 on the Judiciary of the Senate” and inserting “Permanent

1 Select Committee on Intelligence of the House of Rep-
2 resentatives, the Select Committee on Intelligence of the
3 Senate, and the Committees on the Judiciary of the House
4 of Representatives and the Senate”.

5 **TITLE VII—SUNSETS**

6 **SEC. 701. USA PATRIOT IMPROVEMENT AND REAUTHORIZA-**
7 **TION ACT OF 2005.**

8 Section 102(b)(1) of the USA PATRIOT Improve-
9 ment and Reauthorization Act of 2005 (50 U.S.C. 1805
10 note) is amended by striking “June 1, 2015” and insert-
11 ing “December 31, 2017”.

