

115TH CONGRESS
1ST SESSION

S. 1339

To provide authority for access to certain business records collected under the Foreign Intelligence Surveillance Act of 1978 prior to November 29, 2015, to make the authority for roving surveillance, the authority to treat individual terrorists as agents of foreign powers, and title VII of the Foreign Intelligence Surveillance Act of 1978 permanent, and to modify the certification requirements for access to telephone toll and transactional records by the Federal Bureau of Investigation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2017

Mr. COTTON (for himself, Mr. BURR, Mr. RUBIO, Mr. CORNYN, Mr. TILLIS, Mr. ROBERTS, Mr. THUNE, and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide authority for access to certain business records collected under the Foreign Intelligence Surveillance Act of 1978 prior to November 29, 2015, to make the authority for roving surveillance, the authority to treat individual terrorists as agents of foreign powers, and title VII of the Foreign Intelligence Surveillance Act of 1978 permanent, and to modify the certification requirements for access to telephone toll and transactional records by the Federal Bureau of Investigation, and for other purposes.

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 “Liberty Through
5 Strength Act”.

6 **SEC. 2. ACCESS TO CERTAIN BUSINESS RECORDS COL-**
7 **LECTED UNDER THE FOREIGN INTEL-**
8 **LIGENCE SURVEILLANCE ACT OF 1978 PRIOR**
9 **TO NOVEMBER 29, 2015.**

10 (a) IN GENERAL.—Notwithstanding any other provi-
11 sion of law, the Director of the National Security Agency
12 shall have access to all business records collected under
13 section 501 of the Foreign Intelligence Surveillance Act
14 of 1978 (50 U.S.C. 1861) prior to November 29, 2015,
15 in the same manner and for the same purposes that the
16 Director had access to such records prior to such date.

17 (b) REQUIREMENT TO MAINTAIN BUSINESS
18 RECORDS.—Notwithstanding any other provision of law,
19 the Director of the National Security Agency shall main-
20 tain each business record referred to in subsection (a) for
21 the 5-year period beginning on the date that such record
22 was acquired under section 501 of the Foreign Intelligence
23 Surveillance Act of 1978 (50 U.S.C. 1861).

24 (c) EFFECTIVE PERIOD.—The authority for access to
25 business records under subsection (a) shall be in effect

1 during the 5-year period beginning on the date of the en-
2 actment of this Act.

3 **SEC. 3. AUTHORITY FOR ROVING SURVEILLANCE UNDER**
4 **THE FOREIGN INTELLIGENCE SURVEIL-**
5 **LANCE ACT OF 1978.**

6 Section 102(b)(1) of the USA PATRIOT Improve-
7 ment and Reauthorization Act of 2005 (Public Law 109–
8 177; 50 U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50
9 U.S.C. 1862 note) is amended by striking “and section
10 105(c)(2) read as they” and inserting “reads as it”.

11 **SEC. 4. PERMANENT AUTHORITY FOR INDIVIDUAL TER-**
12 **RORIST TO BE TREATED AS AGENTS OF FOR-**
13 **EIGN POWERS UNDER THE FOREIGN INTEL-**
14 **LIGENCE SURVEILLANCE ACT OF 1978.**

15 Section 6001 of the Intelligence Reform and Ter-
16 rorism Prevention Act of 2004 (50 U.S.C. 1801 note) is
17 amended by striking subsection (b).

18 **SEC. 5. REPEAL OF SUNSET OF TITLE VII OF THE FOREIGN**
19 **INTELLIGENCE SURVEILLANCE ACT OF 1978.**

20 (a) REPEAL.—Section 403 of the FISA Amendments
21 Act of 2008 (Public Law 110–261; 122 Stat. 2474) is
22 amended by striking subsection (b).

23 (b) CONFORMING AMENDMENT.—Section 404 of the
24 FISA Amendments Act of 2008 (Public Law 110–261; 50
25 U.S.C. 1801 note) is amended by striking subsection (b).

1 **SEC. 6. COUNTERINTELLIGENCE ACCESS TO TELEPHONE**
2 **TOLL AND TRANSACTIONAL RECORDS.**

3 Subsection (b) of section 2709 of title 18, United
4 States Code, is amended to read as follows:

5 “(b) **REQUIRED CERTIFICATION.**—

6 “(1) **IN GENERAL.**—The Director of the Fed-
7 eral Bureau of Investigation, or his or her designee
8 in a position not lower than Deputy Assistant Direc-
9 tor at Bureau headquarters or a Special Agent in
10 Charge in a Bureau field office designated by the
11 Director, may, using a term that specifically identi-
12 fies a person, entity, telephone number, or account
13 as the basis for a request, request information and
14 records described in paragraph (2) of a person or
15 entity, but not the contents of an electronic commu-
16 nication, if the Director (or his or her designee) cer-
17 tifies in writing to the wire or electronic communica-
18 tion service provider to which the request is made
19 that the information and records sought are relevant
20 to an authorized investigation to protect against
21 international terrorism or clandestine intelligence ac-
22 tivities, provided that such an investigation of a
23 United States person is not conducted solely on the
24 basis of activities protected by the First Amendment
25 to the Constitution of the United States.

1 “(2) OBTAINABLE TYPES OF INFORMATION AND
2 RECORDS.—The information and records described
3 in this paragraph are the following:

4 “(A) Name, physical address, e-mail ad-
5 dress, telephone number, instrument number,
6 and other similar account identifying informa-
7 tion.

8 “(B) Account number, login history, length
9 of service (including start date), types of serv-
10 ice, and means and sources of payment for
11 service (including any card or bank account in-
12 formation).

13 “(C) Local and long distance toll billing
14 records.

15 “(D) Internet Protocol (commonly known
16 as ‘IP’) address or other network address, in-
17 cluding any temporarily assigned IP or network
18 address, communication addressing, routing, or
19 transmission information, including any net-
20 work address translation information, and ses-
21 sion times and durations for an electronic com-
22 munication, except that such information and
23 records shall not include cell site location infor-
24 mation, location information derived from a
25 global navigation satellite system, or domain

- 1 name information beyond the fully qualified do-
- 2 main name.”.

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