

116TH CONGRESS
2D SESSION

S. 3421

To amend the Foreign Intelligence Surveillance Act of 1978 to prohibit the production of certain business records, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2020

Mr. LEE (for himself, Mr. LEAHY, and Mr. CRAMER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 to prohibit the production of certain business records, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “USA FREEDOM Reauthorization Act of 2020”.

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

Sec. 101. Repeal of authority to access on an ongoing basis call detail records.

- Sec. 102. Civil liberties protections in use of authority to access business records.
- Sec. 103. Protection of information otherwise requiring warrant.
- Sec. 104. Protecting Fourth Amendment rights of United States persons.
- Sec. 105. Use of information.
- Sec. 106. Exclusions from authority to access business records.
- Sec. 107. Effective date.

TITLE II—FOREIGN INTELLIGENCE SURVEILLANCE COURT

- Sec. 201. Declassification of significant decisions, orders, and opinions.
- Sec. 202. Appointment of amici curiae and access to information.
- Sec. 203. Disclosure of relevant information; Inspector General oversight.
- Sec. 204. Information provided in annual reports.

TITLE III—OTHER MATTERS

- Sec. 301. Mandatory reporting on certain orders.
- Sec. 302. Improvements to Privacy and Civil Liberties Oversight Board.
- Sec. 303. Report on use of FISA authorities regarding protected activities and protected classes.
- Sec. 304. Sunsets.
- Sec. 305. Technical amendments.

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.).

9 **TITLE I—FISA BUSINESS**
 10 **RECORDS**

11 **SEC. 101. REPEAL OF AUTHORITY TO ACCESS ON AN ONGO-**
 12 **ING BASIS CALL DETAIL RECORDS.**

13 (a) CALL DETAIL RECORDS.—

14 (1) REPEAL.—Section 501(b)(2) (50 U.S.C.
 15 1861(b)(2)) is amended—

1 (A) by striking subparagraph (C);

2 (B) in subparagraph (B)—

3 (i) in the matter preceding clause (i),
4 by striking “in the case of” and all that
5 follows through “in subparagraph (C)),”;
6 and

7 (ii) in clause (iii), by striking the
8 semicolon at the end and inserting “;
9 and”; and

10 (C) by redesignating subparagraph (D) as
11 subparagraph (C).

12 (2) PROHIBITION.—Section 501(a) (50 U.S.C.
13 1861(a)) is amended by adding at the end the fol-
14 lowing:

15 “(4) An application under paragraph (1) may not
16 seek an order authorizing or requiring the production on
17 an ongoing basis of call detail records.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) ORDERS.—Section 501(c) (50 U.S.C.
20 1861(c)) is amended—

21 (A) in paragraph (1), by striking “with
22 subsection (b)(2)(D)” and inserting “with sub-
23 section (b)(2)(C)”; and

24 (B) in paragraph (2), by striking subpara-
25 graph (F) and inserting the following:

1 “(F) in the case of an application for call
2 detail records, shall direct the Government—

3 “(i) to adopt minimization procedures
4 that require the prompt destruction of all
5 call detail records produced under the
6 order that the Government determines are
7 not foreign intelligence information; and

8 “(ii) to destroy all call detail records
9 produced under the order as prescribed by
10 such procedures.”.

11 (2) COMPENSATION.—Section 501(j) (50
12 U.S.C. 1861(j)) is amended to read as follows:

13 “(j) COMPENSATION.—The Government shall com-
14 pensate a person for reasonable expenses incurred for pro-
15 viding technical assistance to the Government under this
16 section.”.

17 (3) DEFINITIONS.—Section 501(k)(4)(B) (50
18 U.S.C. 1861(k)(4)(B)) is amended by striking “For
19 purposes of an application submitted under sub-
20 section (b)(2)(C)” and inserting “In the case of an
21 application for a call detail record”.

22 (4) OVERSIGHT.—Section 502(b) (50 U.S.C.
23 1862(b)) is amended—

24 (A) by striking paragraph (4); and

1 (B) by redesignating paragraphs (5)
2 through (8) as paragraphs (4) through (7), re-
3 spectively.

4 (5) ANNUAL REPORTS.—Section 603 (50
5 U.S.C. 1873) is amended—

6 (A) in subsection (b)—

7 (i) by transferring subparagraph (C)
8 of paragraph (6) to the end of paragraph
9 (5);

10 (ii) in paragraph (5)—

11 (I) in subparagraph (A), by strik-
12 ing “; and” and inserting a semicolon;

13 (II) in subparagraph (B), by
14 striking the semicolon and inserting “;
15 and”; and

16 (III) in subparagraph (C), as
17 transferred by clause (i) of this sub-
18 paragraph, by striking “any database
19 of”;

20 (iii) by striking paragraph (6); and

21 (iv) by redesignating paragraph (7) as
22 paragraph (6); and

23 (B) in subsection (d)—

1 (i) in paragraph (1), by striking “any
2 of paragraphs (3), (5), or (6)” and insert-
3 ing “either of paragraphs (3) or (5)”; and

4 (ii) in paragraph (2)(A), by striking
5 “Paragraphs (2)(B), (2)(C), and (6)(C)”
6 and inserting “Paragraphs (2)(B) and
7 (2)(C)”.

8 (6) PUBLIC REPORTING.—Section 604(a)(1)(F)
9 (50 U.S.C. 1874(a)(1)(F)) is amended—

10 (A) in clause (i), by striking the semicolon
11 and inserting “; and”;

12 (B) in clause (ii), by striking “; and” and
13 inserting a period; and

14 (C) by striking clause (iii).

15 **SEC. 102. CIVIL LIBERTIES PROTECTIONS IN USE OF AU-**
16 **THORITY TO ACCESS BUSINESS RECORDS.**

17 Section 501(a)(2)(B) (50 U.S.C. 1861(a)(2)(B)) is
18 amended by striking “solely” and inserting “substan-
19 tially”.

20 **SEC. 103. PROTECTION OF INFORMATION OTHERWISE RE-**
21 **QUIRING WARRANT.**

22 Section 501(a) (50 U.S.C. 1861(a)), as amended by
23 section 101 of this Act, is amended by adding at the end
24 the following:

1 “(5) An application under paragraph (1) may not
2 seek an order authorizing or requiring the production of
3 a tangible thing if the compelled production of such thing
4 would require a warrant for law enforcement purposes.”.

5 **SEC. 104. PROTECTING FOURTH AMENDMENT RIGHTS OF**
6 **UNITED STATES PERSONS.**

7 Section 501(b) (50 U.S.C. 1861(b)), as amended by
8 section 101(a)(1) of this Act, is amended—

9 (1) in paragraph (1), by striking “and” at the
10 end;

11 (2) in paragraph (2), by striking the period at
12 the end and inserting “; and”; and

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

14 “(3) for an order seeking information con-
15 cerning a known United States person shall dem-
16 onstrate probable cause to believe that the person—

17 “(A) is an agent of a foreign power; or

18 “(B) has been or will soon be involved in
19 an act of terrorism or in clandestine intelligence
20 activities in violation of the law.”.

21 **SEC. 105. USE OF INFORMATION.**

22 Section 501(h) (50 U.S.C. 1861(h)) is amended—

23 (1) by striking “Information acquired” and in-
24 serting the following:

25 “(1) IN GENERAL.—Information acquired”; and

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

2 “(2) USE IN TRIALS, HEARINGS, OR OTHER
3 PROCEEDINGS.—For purposes of subsections (b)
4 through (h) of section 106—

5 “(A) information obtained or derived from
6 the production of tangible things pursuant to
7 an investigation conducted under this section
8 shall be deemed to be information acquired
9 from an electronic surveillance pursuant to title
10 I; and

11 “(B) in carrying out subparagraph (A), a
12 person shall be deemed to be an aggrieved per-
13 son if—

14 “(i) the person is the target of such
15 an investigation; or

16 “(ii) the activities or communications
17 of the person are described in any tangible
18 thing collected pursuant to such an inves-
19 tigation.”.

20 **SEC. 106. EXCLUSIONS FROM AUTHORITY TO ACCESS BUSI-**
21 **NESS RECORDS.**

22 Section 501(k) (50 U.S.C. 1861(k)) is amended by
23 adding at the end the following:

24 “(5) The term ‘tangible thing’ does not include
25 the following:

1 “(A) Location information, including cell
2 site location and global positioning system in-
3 formation.

4 “(B) Internet use information, including
5 website browsing information and internet
6 search history information.

7 “(C) Medical and health-related records.”.

8 **SEC. 107. EFFECTIVE DATE.**

9 The amendments made by this title shall take effect
10 on the date of enactment of this Act and shall apply with
11 respect to applications made under section 501 of the For-
12 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
13 1861) on or after such date.

14 **TITLE II—FOREIGN INTEL-**
15 **LIGENCE SURVEILLANCE**
16 **COURT**

17 **SEC. 201. DECLASSIFICATION OF SIGNIFICANT DECISIONS,**
18 **ORDERS, AND OPINIONS.**

19 (a) **TIMING OF DECLASSIFICATION.**—Section 602(a)
20 (50 U.S.C. 1872(a)) is amended by adding at the end the
21 following: “The Director shall complete the declassifica-
22 tion review and public release of each such decision, order,
23 or opinion by not later than 180 days after the date on
24 which the Foreign Intelligence Surveillance Court or the

1 Foreign Intelligence Surveillance Court of Review issues
2 such decision, order, or opinion.”.

3 (b) MATTERS COVERED.—Section 602(a) (50 U.S.C.
4 1872(a)), as amended by subsection (a) of this section,
5 is amended—

6 (1) by striking “Subject to subsection (b)” and
7 inserting “(1) Subject to subsection (b)”;

8 (2) by striking “includes a significant” and all
9 that follows through “, and,” and inserting “is de-
10 scribed in paragraph (2) and,”; and

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

12 “(2) The decisions, orders, or opinions issued
13 by the Foreign Intelligence Surveillance Court or the
14 Foreign Intelligence Surveillance Court of Review
15 described in this paragraph are such decisions, or-
16 ders, or opinions that—

17 “(A) include a significant construction or
18 interpretation of any provision of law, including
19 any novel or significant construction or inter-
20 pretation of—

21 “(i) the term ‘specific selection term’;

22 or

23 “(ii) section 501(a)(5); or

1 “(B) result from a proceeding in which an
2 amicus curiae has been appointed pursuant to
3 section 103(i).”.

4 (c) APPLICATION OF REQUIREMENT.—

5 (1) IN GENERAL.—Section 602 of the Foreign
6 Intelligence Surveillance Act of 1978 (50 U.S.C.
7 1872) shall apply with respect to each decision,
8 order, or opinion issued by the Foreign Intelligence
9 Surveillance Court or the Foreign Intelligence Sur-
10 veillance Court of Review before, on, or after the
11 date of enactment of that section.

12 (2) PAST DECISIONS, ORDERS, AND OPIN-
13 IONS.—With respect to each decision, order, or opin-
14 ion described in paragraph (1) that was issued be-
15 fore or on the date of enactment referred to in that
16 paragraph, the Director of National Intelligence
17 shall complete the declassification review and public
18 release of the decision, order, or opinion pursuant to
19 section 602 of the Foreign Intelligence Surveillance
20 Act of 1978 (50 U.S.C. 1872) by not later than 1
21 year after the date of enactment of this Act.

22 **SEC. 202. APPOINTMENT OF AMICI CURIAE AND ACCESS TO**
23 **INFORMATION.**

24 (a) EXPANSION OF APPOINTMENT AUTHORITY.—

1 (1) IN GENERAL.—Section 103(i)(2) (50 U.S.C.
2 1803(i)(2)) is amended by striking subparagraph
3 (A) and inserting the following:

4 “(A) shall appoint an individual who has
5 been designated under paragraph (1) and who
6 possesses expertise in privacy and civil liberties
7 to serve as amicus curiae to assist such court
8 in the consideration of any application for an
9 order or review that, in the opinion of the
10 court—

11 “(i) presents a novel or significant in-
12 terpretation of the law, unless the court
13 issues a finding that such appointment is
14 not appropriate;

15 “(ii) presents significant concerns
16 with respect to the activities of a United
17 States person that are protected by the
18 First Amendment to the Constitution of
19 the United States, unless the court issues
20 a finding that such appointment is not ap-
21 propriate;

22 “(iii) presents or involves a sensitive
23 investigative matter, unless the court
24 issues a finding that such appointment is
25 not appropriate;

1 “(iv) presents a request for approval
2 of a new program, a new technology, or a
3 new use of existing technology, unless the
4 court issues a finding that such appoint-
5 ment is not appropriate;

6 “(v) presents a request for reauthor-
7 ization of programmatic surveillance, un-
8 less the court issues a finding that such
9 appointment is not appropriate; or

10 “(vi) otherwise presents civil liberties
11 issues, unless the court issues a finding
12 that such appointment is not appropriate;
13 and”.

14 (2) DEFINITION OF SENSITIVE INVESTIGATIVE
15 MATTER.—Section 103(i) (50 U.S.C. 1803(i)) is
16 amended by adding at the end the following:

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

19 “(A) an investigative matter involving the
20 activities of—

21 “(i) a domestic public official or polit-
22 ical candidate;

23 “(ii) a domestic religious or political
24 organization, or an individual prominent in
25 such an organization; or

1 “(iii) the domestic news media; or
2 “(B) any other investigative matter that,
3 in the judgment of the applicable court estab-
4 lished under subsection (a) or (b), is as sen-
5 sitive as an investigative matter described in
6 subparagraph (A).”.

7 (b) *AUTHORITY TO SEEK REVIEW*.—Section 103(i)
8 (50 U.S.C. 1803(i)), as amended by subsection (a) of this
9 section, is amended—

10 (1) in paragraph (4)—

11 (A) in the paragraph heading, by inserting
12 “; *AUTHORITY*” after “*DUTIES*”;

13 (B) by redesignating subparagraphs (A),
14 (B), and (C) as clauses (i), (ii), and (iii), re-
15 spectively, and adjusting the margins accord-
16 ingly;

17 (C) in the matter preceding clause (i), as
18 so designated, by striking “the amicus curiae
19 shall” and inserting the following: “the amicus
20 curiae—

21 “(A) shall”;

22 (D) in subparagraph (A)(i), as so des-
23 igned, by inserting before the semicolon at the
24 end the following: “, including legal arguments
25 regarding any colorable privacy or civil liberties

1 interest of any aggrieved United States per-
2 son”; and

3 (E) by striking the period at the end and
4 inserting the following: “; and

5 “(B) may raise any issue with the court at
6 any time, regardless of whether the court has
7 requested assistance on that issue.”;

8 (2) by redesignating paragraphs (7) through
9 (12) as paragraphs (8) through (13), respectively;
10 and

11 (3) by inserting after paragraph (6) the fol-
12 lowing:

13 “(7) AUTHORITY TO SEEK REVIEW OF DECI-
14 SIONS.—

15 “(A) FISA COURT DECISIONS.—

16 “(i) PETITION.—Following issuance of
17 an order under this Act by the Foreign In-
18 telligence Surveillance Court, an amicus
19 curiae appointed under paragraph (2) may
20 petition the court to certify for review to
21 the Foreign Intelligence Surveillance Court
22 of Review a question of law pursuant to
23 subsection (j).

24 “(ii) APPOINTMENT.—Upon certifi-
25 cation of any question of law pursuant to

1 this subparagraph, the Court of Review
2 shall appoint the amicus curiae to assist
3 the Court of Review in its consideration of
4 the certified question, unless the Court of
5 Review issues a finding that such appoint-
6 ment is not appropriate.

7 “(B) FISA COURT OF REVIEW DECI-
8 SIONS.—An amicus curiae appointed under
9 paragraph (2) may file a petition for a writ of
10 certiorari from the Supreme Court of the
11 United States for review of any decision by the
12 Foreign Intelligence Surveillance Court of Re-
13 view.

14 “(C) DECLASSIFICATION OF REFER-
15 RALS.—For purposes of section 602, a petition
16 filed under subparagraph (A) or (B) of this
17 paragraph and all of its content shall be consid-
18 ered a decision, order, or opinion issued by the
19 Foreign Intelligence Surveillance Court or the
20 Foreign Intelligence Surveillance Court of Re-
21 view described in paragraph (2) of section
22 602(a).”.

23 (e) ACCESS TO INFORMATION.—

24 (1) APPLICATION AND MATERIALS.—Section
25 103(i)(6)(A) (50 U.S.C. 1803(i)(6)(A)) is amended

1 by striking clauses (i) and (ii) and inserting the fol-
2 lowing:

3 “(i) shall have access to—

4 “(I) the application, certification,
5 petition, motion, and other informa-
6 tion and supporting materials, sub-
7 mitted to the Foreign Intelligence
8 Surveillance Court in connection with
9 the matter in which the amicus curiae
10 has been appointed, including access
11 to any relevant legal precedent (in-
12 cluding any such precedent that is
13 cited by the Government, including in
14 such an application);

15 “(II) any other information or
16 materials that the court determines is
17 relevant to the duties of the amicus
18 curiae; and

19 “(III) an unredacted copy of
20 each relevant decision made by the
21 Foreign Intelligence Surveillance
22 Court or the Foreign Intelligence Sur-
23 veillance Court of Review in which the
24 court decides a question of law, with-

1 out regard to whether the decision is
2 classified; and

3 “(ii) may make a submission to the
4 court requesting access to any particular
5 materials or information (or category of
6 materials or information) that the amicus
7 curiae believes to be relevant to the duties
8 of the amicus curiae.”.

9 (2) CLARIFICATION OF ACCESS TO CERTAIN IN-
10 FORMATION.—Section 103(i)(6) (50 U.S.C.
11 1803(i)(6)) is amended—

12 (A) in subparagraph (B), by striking
13 “may” and inserting “shall”; and

14 (B) by striking subparagraph (C) and in-
15 serting the following:

16 “(C) CLASSIFIED INFORMATION.—An ami-
17 cus curiae designated or appointed by the court
18 shall have access to unredacted copies of each
19 opinion, order, transcript, pleading, or other
20 document of the Foreign Intelligence Surveil-
21 lance Court and the Foreign Intelligence Sur-
22 veillance Court of Review, including, if the indi-
23 vidual is eligible for access to classified informa-
24 tion, any classified documents, information, and
25 other materials or proceedings.”.

1 (3) CONSULTATION AMONG AMICI CURIAE.—
2 Section 103(i)(6) (50 U.S.C. 1803(i)(6)), as amend-
3 ed by paragraphs (1) and (2) of this subsection, is
4 amended—

5 (A) by redesignating subparagraphs (B),
6 (C), and (D) as subparagraphs (C), (D), and
7 (E), respectively; and

8 (B) by inserting after subparagraph (A)
9 the following:

10 “(B) CONSULTATION.—If the Foreign In-
11 telligence Surveillance Court or the Foreign In-
12 telligence Surveillance Court of Review deter-
13 mines that it is relevant to the duties of an
14 amicus curiae appointed under paragraph (2),
15 the amicus curiae may consult with one or more
16 of the other individuals designated by the court
17 to serve as amicus curiae pursuant to para-
18 graph (1) regarding any of the information rel-
19 evant to any assigned proceeding.”.

20 **SEC. 203. DISCLOSURE OF RELEVANT INFORMATION; IN-**
21 **SPECTOR GENERAL OVERSIGHT.**

22 (a) DISCLOSURE OF RELEVANT INFORMATION.—

23 (1) IN GENERAL.—The Foreign Intelligence
24 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
25 is amended by adding at the end the following:

1 **“TITLE IX—DISCLOSURE OF**
 2 **RELEVANT INFORMATION**

3 **“SECTION 901. DISCLOSURE OF RELEVANT INFORMATION.**

4 “The Attorney General or any other Federal officer
 5 making an application for a court order under this Act
 6 shall provide the court with all information in the posses-
 7 sion of the Government that is material to determining
 8 whether the application satisfies the applicable require-
 9 ments under this Act, including any exculpatory informa-
 10 tion.”.

11 (2) TECHNICAL AMENDMENT.—The table of
 12 contents of the Foreign Intelligence Surveillance Act
 13 of 1978 is amended by adding at the end the fol-
 14 lowing:

 “TITLE IX—DISCLOSURE OF RELEVANT INFORMATION

 “Sec. 901. Disclosure of relevant information.”.

15 (b) INSPECTOR GENERAL OVERSIGHT.—

16 (1) IN GENERAL.—Title VI (50 U.S.C. 1871 et
 17 seq.) is amended by adding at the end the following:

18 **“SEC. 605. INSPECTOR GENERAL OVERSIGHT.**

19 “(a) ANNUAL AUDIT.—Each year, the Inspector Gen-
 20 eral of the Department of Justice and the Inspector Gen-
 21 eral of each element of the intelligence community shall
 22 each conduct an audit of the applications for court orders
 23 made by the Department or the element, respectively,
 24 under this Act during the preceding year.

1 “(b) SCOPE; CONTENTS.—In conducting an audit
2 under subsection (a), an Inspector General shall—

3 “(1) review a random sampling of applications
4 made by the Department or element, respectively;
5 and

6 “(2) assess whether—

7 “(A) the assertions made in each applica-
8 tion were adequately supported by evidence;

9 “(B) each application included all material
10 information, including any exculpatory informa-
11 tion, as required under section 901; and

12 “(C) each application meets constitutional
13 and legal requirements.”.

14 (2) TECHNICAL AMENDMENT.—The table of
15 contents of the Foreign Intelligence Surveillance Act
16 of 1978 is amended by inserting after the item relat-
17 ing to section 604 the following:

“Sec. 605. Inspector General oversight.”.

18 **SEC. 204. INFORMATION PROVIDED IN ANNUAL REPORTS.**

19 (a) REPORTS BY DIRECTOR OF THE ADMINISTRA-
20 TIVE OFFICE OF THE UNITED STATES COURTS.—Section
21 603(a)(1) (50 U.S.C. 1873(a)(1)) is amended—

22 (1) in subparagraph (E), by striking “; and”
23 and inserting a semicolon;

24 (2) in subparagraph (F), by striking the period
25 at the end and inserting a semicolon; and

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

2 “(G) the number of certifications by the
3 Foreign Intelligence Surveillance Court of Re-
4 view pursuant to section 103(j); and

5 “(H) the number of requests to certify a
6 question made by an amicus curiae to the For-
7 eign Intelligence Surveillance Court of Review
8 pursuant to section 103(i)(7).”.

9 (b) REPORTS BY DIRECTOR OF NATIONAL INTEL-
10 LIGENCE.—Section 603(b)(5)(B) (50 U.S.C.
11 1873(b)(5)(B)), as amended by section 101 of this Act,
12 is amended by inserting before the semicolon at the end
13 the following: “, including information received electroni-
14 cally and through hard copy and portable media”.

15 **TITLE III—OTHER MATTERS**

16 **SEC. 301. MANDATORY REPORTING ON CERTAIN ORDERS.**

17 (a) REPORTING ON UNITED STATES PERSON QUE-
18 RIES.—Section 603(b)(2) (50 U.S.C. 1873(b)(2)) is
19 amended—

20 (1) in subparagraph (B), by striking “the num-
21 ber of search terms concerning a known United
22 States person” and inserting “the number of search
23 terms that concern a known United States person or
24 are reasonably likely to identify a United States per-
25 son”; and

1 (2) in subparagraph (C), by striking “the num-
2 ber of queries concerning a known United States
3 person” and inserting “the number of queries that
4 concern a known United States person or are rea-
5 sonably likely to identify a United States person”.

6 (b) **MODIFICATION TO EXCEPTIONS.**—Section
7 603(d)(2) (50 U.S.C. 1873(d)(2)) is amended by striking
8 “INFORMATION.—” and all that follows through “Para-
9 graph (3)(B)” and inserting “INFORMATION.—Paragraph
10 (3)(B)”.

11 **SEC. 302. IMPROVEMENTS TO PRIVACY AND CIVIL LIB-**
12 **ERTIES OVERSIGHT BOARD.**

13 Section 1061(h)(4) of the Intelligence Reform and
14 Terrorism Prevention Act of 2004 (42 U.S.C.
15 2000ee(h)(4)) is amended to read as follows:

16 “(4) **TERM.**—

17 “(A) **COMMENCEMENT.**—Each member of
18 the Board shall serve a term of 6 years, com-
19 mencing on the date of the appointment of the
20 member to the Board.

21 “(B) **REAPPOINTMENT.**—A member may
22 be reappointed to 1 or more additional terms.

23 “(C) **VACANCY.**—A vacancy in the Board
24 shall be filled in the manner in which the origi-
25 nal appointment was made.

1 “(D) EXTENSION.—Upon the expiration of
2 the term of office of a member, the member
3 may continue to serve, at the election of the
4 member—

5 “(i) during the period preceding the
6 reappointment of the member pursuant to
7 subparagraph (B); or

8 “(ii) until the earlier of—

9 “(I) the date on which the mem-
10 ber’s successor has been appointed
11 and qualified; or

12 “(II) the date that is 2 years
13 after the expiration of the member’s
14 term of office.”.

15 **SEC. 303. REPORT ON USE OF FISA AUTHORITIES REGARD-**
16 **ING PROTECTED ACTIVITIES AND PRO-**
17 **TECTED CLASSES.**

18 (a) REPORT.—Not later than 1 year after the date
19 of enactment of this Act, the Privacy and Civil Liberties
20 Oversight Board shall make publicly available and submit
21 to the appropriate congressional committees a report on
22 the use of activities and protected classes described in sub-
23 section (b) in—

24 (1) applications for orders made by the United
25 States Government under the Foreign Intelligence

1 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.);
2 and

3 (2) investigations for which such orders are
4 sought.

5 (b) ACTIVITIES AND PROTECTED CLASSES DE-
6 SCRIBED.—The activities and protected classes described
7 in this subsection are the following:

8 (1) Activities and expression protected by the
9 First Amendment to the Constitution of the United
10 States.

11 (2) Race, ethnicity, national origin, and reli-
12 gious affiliation.

13 (c) FORM.—In addition to the report made publicly
14 available and submitted under subsection (a), the Board
15 may submit to the appropriate congressional committees
16 a classified annex.

17 (d) APPROPRIATE CONGRESSIONAL COMMITTEES
18 DEFINED.—In this section, the term “appropriate con-
19 gressional committees” means—

20 (1) the Committee on the Judiciary and the Se-
21 lect Committee on Intelligence of the Senate; and

22 (2) the Committee on the Judiciary and the
23 Permanent Select Committee on Intelligence of the
24 House of Representatives.

1 **SEC. 304. SUNSETS.**

2 (a) USA PATRIOT IMPROVEMENT AND REAUTHOR-
3 IZATION ACT OF 2005.—Section 102(b)(1) of the USA
4 PATRIOT Improvement and Reauthorization Act of 2005
5 (50 U.S.C. 1805 note) is amended by striking “March 15,
6 2020” and inserting “December 1, 2023”.

7 (b) INTELLIGENCE REFORM AND TERRORISM PRE-
8 VENTION ACT OF 2004.—Section 6001(b)(1) of the Intel-
9 ligence Reform and Terrorism Prevention Act of 2004 (50
10 U.S.C. 1801 note) is amended by striking “March 15,
11 2020” and inserting “December 1, 2023”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the earlier of the date of
14 enactment of this Act or March 15, 2020.

15 **SEC. 305. TECHNICAL AMENDMENTS.**

16 (a) IN GENERAL.—The Foreign Intelligence Surveil-
17 lance Act of 1978 (50 U.S.C. 1801 et seq.) is amended
18 as follows:

19 (1) In section 103(e) (50 U.S.C. 1803(e)), by
20 striking “702(h)(4)” each place the term appears
21 and inserting “702(i)(4)”.

22 (2) In section 105(a)(4) (50 U.S.C.
23 1805(a)(4))—

24 (A) by striking “section 104(a)(7)(E)” and
25 inserting “section 104(a)(6)(E)”; and

1 (B) by striking “section 104(d)” and in-
2 serting “section 104(c)”.

3 (3) In section 501(a) (50 U.S.C. 1861(a)), by
4 indenting paragraph (3) 2 ems to the left.

5 (4) In section 603(b)(2)(C) (50 U.S.C.
6 1873(b)(2)(C)), by inserting “and” after the semi-
7 colon.

8 (5) In section 702 (50 U.S.C. 1881a)—

9 (A) in subsection (h)(3), by striking “sub-
10 section (i)” and inserting “subsection (j)”;

11 (B) in subsection (j)(1), by striking “sub-
12 section (g)” each place the term appears and
13 inserting “subsection (h)”;

14 (C) in the subsection heading of subsection
15 (m), by inserting a comma after “ASSESS-
16 MENTS”.

17 (6) In section 801(8)(B)(iii) (50 U.S.C.
18 1885(8)(B)(iii)), by striking “702(h)” and inserting
19 “702(i)”.

20 (7) In section 802(a)(3) (50 U.S.C.
21 1885a(a)(3)), by striking “702(h)” and inserting
22 “702(i)”.

23 (b) REFERENCES TO FOREIGN INTELLIGENCE SUR-
24 VEILLANCE COURT AND FOREIGN INTELLIGENCE SUR-
25 VEILLANCE COURT OF REVIEW.—

1 (1) DEFINITIONS.—Section 101 (50 U.S.C.
2 1801) is amended by adding at the end the fol-
3 lowing:

4 “(q) The term ‘Foreign Intelligence Surveillance
5 Court’ means the court established under section 103(a).

6 “(r) The terms ‘Foreign Intelligence Surveillance
7 Court of Review’ and ‘Court of Review’ mean the court
8 established under section 103(b).”.

9 (2) CONFORMING AMENDMENTS.—The Foreign
10 Intelligence Surveillance Act of 1978 (50 U.S.C.
11 1801 et seq.) is amended—

12 (A) in section 102(a)(3) (50 U.S.C.
13 1802(a)(3)), by striking “the court established
14 under section 103(a)” and inserting “the For-
15 eign Intelligence Surveillance Court”;

16 (B) in section 103 (50 U.S.C. 1803)—

17 (i) in subsection (a)—

18 (I) in paragraph (2)(A), by strik-
19 ing “The court established under this
20 subsection” and inserting “The For-
21 eign Intelligence Surveillance Court”;
22 and

23 (II) by striking “the court estab-
24 lished under this subsection” each
25 place it appears and inserting “the

1 Foreign Intelligence Surveillance
2 Court”;

3 (ii) in subsection (g)—

4 (I) by striking “the court estab-
5 lished pursuant to subsection (a)” and
6 inserting “the Foreign Intelligence
7 Surveillance Court”;

8 (II) by striking “the court of re-
9 view established pursuant to sub-
10 section (b)” and inserting “the For-
11 eign Intelligence Surveillance Court of
12 Review”; and

13 (III) by striking “The courts es-
14 tablished pursuant to subsections (a)
15 and (b)” and inserting “The Foreign
16 Intelligence Surveillance Court and
17 the Foreign Intelligence Surveillance
18 Court of Review”;

19 (iii) in subsection (h), by striking “a
20 court established under this section” and
21 inserting “the Foreign Intelligence Surveil-
22 lance Court or the Foreign Intelligence
23 Surveillance Court of Review”;

24 (iv) in subsection (i)—

1 (I) in paragraph (1), by striking
2 “the courts established under sub-
3 sections (a) and (b)” and inserting
4 “the Foreign Intelligence Surveillance
5 Court and the Foreign Intelligence
6 Surveillance Court of Review”;

7 (II) in paragraph (3)(B), by
8 striking “the courts” and inserting
9 “the Foreign Intelligence Surveillance
10 Court and the Foreign Intelligence
11 Surveillance Court of Review”;

12 (III) in paragraph (5), by strik-
13 ing “the court” and inserting “the
14 Foreign Intelligence Surveillance
15 Court or the Foreign Intelligence Sur-
16 veillance Court of Review, as the case
17 may be,”;

18 (IV) in paragraph (6), by strik-
19 ing “the court” each place it appears
20 and inserting “the Foreign Intel-
21 ligence Surveillance Court or the For-
22 eign Intelligence Surveillance Court of
23 Review”;

24 (V) by striking “a court estab-
25 lished under subsection (a) or (b)”

1 each place it appears and inserting
2 “the Foreign Intelligence Surveillance
3 Court or the Foreign Intelligence Sur-
4 veillance Court of Review”; and

5 (VI) by striking “A court estab-
6 lished under subsection (a) or (b)”
7 each place it appears and inserting
8 “The Foreign Intelligence Surveillance
9 Court or the Foreign Intelligence Sur-
10 veillance Court of Review”;

11 (v) in subsection (j)—

12 (I) by striking “a court estab-
13 lished under subsection (a)” and in-
14 serting “the Foreign Intelligence Sur-
15 veillance Court”; and

16 (II) by striking “the court deter-
17 mines” and inserting “the Foreign In-
18 telligence Surveillance Court deter-
19 mines”;

20 (vi) by striking “the court established
21 under subsection (a)” each place it appears
22 and inserting “the Foreign Intelligence
23 Surveillance Court”; and

24 (vii) by striking “the court established
25 under subsection (b)” each place it appears

1 and inserting “the Foreign Intelligence
2 Surveillance Court of Review”;

3 (C) in section 105(c) (50 U.S.C.
4 1805(c))—

5 (i) in paragraph (2)(B), by striking
6 “the Court” and inserting “the Foreign
7 Intelligence Surveillance Court”; and

8 (ii) in paragraph (3), by striking “the
9 court” each place it appears and inserting
10 “the Foreign Intelligence Surveillance
11 Court”;

12 (D) in section 401 (50 U.S.C. 1841), by
13 striking “, and ‘State’” and inserting “‘State’,
14 ‘Foreign Intelligence Surveillance Court’, and
15 ‘Foreign Intelligence Surveillance Court of Re-
16 view’”;

17 (E) in section 402 (50 U.S.C. 1842)—

18 (i) in subsection (b)(1), by striking
19 “the court established by section 103(a) of
20 this Act” and inserting “the Foreign Intel-
21 ligence Surveillance Court”; and

22 (ii) in subsection (h)(2), by striking
23 “the court established under section
24 103(a)” and inserting “the Foreign Intel-
25 ligence Surveillance Court”;

1 (F) in section 501 (50 U.S.C. 1861)—

2 (i) in subsection (b)(1), by striking
3 “the court established by section 103(a)”
4 and inserting “the Foreign Intelligence
5 Surveillance Court”;

6 (ii) in subsection (g)(3), by striking
7 “the court established under section
8 103(a)” and inserting “the Foreign Intel-
9 ligence Surveillance Court”; and

10 (iii) in subsection (k)(1), by striking
11 “, and ‘State’” and inserting “‘State’, and
12 ‘Foreign Intelligence Surveillance Court’”;

13 (G) in section 502(c)(1)(E), by striking
14 “the court established under section 103” and
15 inserting “the Foreign Intelligence Surveillance
16 Court (as defined by section 101)”;

17 (H) in section 801 (50 U.S.C. 1885)—

18 (i) in paragraph (8)(B)(i), by striking
19 “the court established under section
20 103(a)” and inserting “the Foreign Intel-
21 ligence Surveillance Court”; and

22 (ii) by adding at the end the fol-
23 lowing:

24 “(10) FOREIGN INTELLIGENCE SURVEILLANCE
25 COURT.—The term ‘Foreign Intelligence Surveillance

1 Court' means the court established under section
2 103(a)."; and

3 (I) in section 802(a)(1) (50 U.S.C.
4 1885a(a)(1)), by striking "the court established
5 under section 103(a)" and inserting "the For-
6 eign Intelligence Surveillance Court".

7 (c) COORDINATION WITH OTHER AMENDMENTS
8 MADE BY THIS ACT.—For purposes of applying amend-
9 ments made by provisions of this Act other than this sec-
10 tion, the amendments made by this section shall be treated
11 as having been enacted immediately before any such
12 amendments by other provisions of this Act.

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