

1 is denied, or after the expiration of 7 days from the  
2 time of authorization by the Attorney General,  
3 whichever is earliest.

4 “(4) USE OF INFORMATION.—If an application  
5 submitted to the Court pursuant to paragraph (1) is  
6 denied, or in any other case where the acquisition is  
7 terminated and no order with respect to the target  
8 of the acquisition is issued under subsection (c), no  
9 information obtained or evidence derived from such  
10 acquisition, except under circumstances in which the  
11 target of the acquisition is determined not to be a  
12 United States person, shall be received in evidence  
13 or otherwise disclosed in any trial, hearing, or other  
14 proceeding in or before any court, grand jury, de-  
15 partment, office, agency, regulatory body, legislative  
16 committee, or other authority of the United States,  
17 a State, or political subdivision thereof, and no in-  
18 formation concerning any United States person ac-  
19 quired from such acquisition shall subsequently be  
20 used or disclosed in any other manner by Federal of-  
21 ficers or employees without the consent of such per-  
22 son, except with the approval of the Attorney Gen-  
23 eral if the information indicates a threat of death or  
24 serious bodily harm to any person.

25 “(e) APPEAL.—

1           “(1) APPEAL TO THE COURT OF REVIEW.—The  
2           Government may file a petition with the Foreign In-  
3           telligence Surveillance Court of Review for review of  
4           an order issued pursuant to subsection (c). The  
5           Court of Review shall have jurisdiction to consider  
6           such petition and shall provide a written statement  
7           for the record of the reasons for a decision under  
8           this paragraph.

9           “(2) CERTIORARI TO THE SUPREME COURT.—  
10          The Government may file a petition for a writ of  
11          certiorari for review of a decision of the Court of Re-  
12          view issued under paragraph (1). The record for  
13          such review shall be transmitted under seal to the  
14          Supreme Court of the United States, which shall  
15          have jurisdiction to review such decision.”

16 **“SEC. 705. JOINT APPLICATIONS AND CONCURRENT AU-**  
17 **THORIZATIONS.**

18          “(a) JOINT APPLICATIONS AND ORDERS.—If an ac-  
19          quisition targeting a United States person under section  
20          703 or 704 is proposed to be conducted both inside and  
21          outside the United States, a judge having jurisdiction  
22          under section 703(a)(1) or 704(a)(1) may issue simulta-  
23          neously, upon the request of the Government in a joint  
24          application complying with the requirements of sections

1 703(b) and 704(b), orders under sections 703(c) and  
2 704(c), as appropriate.

3       “(b) CONCURRENT AUTHORIZATION.—If an order  
4 authorizing electronic surveillance or physical search has  
5 been obtained under section 105 or 304, the Attorney  
6 General may authorize, for the effective period of that  
7 order, without an order under section 703 or 704, the tar-  
8 geting of that United States person for the purpose of ac-  
9 quiring foreign intelligence information while such person  
10 is reasonably believed to be located outside the United  
11 States.

12 **“SEC. 706. USE OF INFORMATION ACQUIRED UNDER TITLE**

13                               **VII.**

14       “(a) INFORMATION ACQUIRED UNDER SECTION  
15 702.—Information acquired from an acquisition con-  
16 ducted under section 702 shall be deemed to be informa-  
17 tion acquired from an electronic surveillance pursuant to  
18 title I for purposes of section 106, except for the purposes  
19 of subsection (j) of such section.

20       “(b) INFORMATION ACQUIRED UNDER SECTION  
21 703.—Information acquired from an acquisition con-  
22 ducted under section 703 shall be deemed to be informa-  
23 tion acquired from an electronic surveillance pursuant to  
24 title I for purposes of section 106.

1   **“SEC. 707. CONGRESSIONAL OVERSIGHT.**

2       “(a) SEMIANNUAL REPORT.—Not less frequently  
3 than once every 6 months, the Attorney General shall fully  
4 inform, in a manner consistent with national security, the  
5 congressional intelligence committees and the Committees  
6 on the Judiciary of the Senate and the House of Rep-  
7 resentatives, consistent with the Rules of the House of  
8 Representatives, the Standing Rules of the Senate, and  
9 Senate Resolution 400 of the 94th Congress or any suc-  
10 cessor Senate resolution, concerning the implementation  
11 of this title.

12       “(b) CONTENT.—Each report under subsection (a)  
13 shall include—

14           “(1) with respect to section 702—

15               “(A) any certifications submitted in ac-  
16 cordance with section 702(g) during the report-  
17 ing period;

18               “(B) with respect to each determination  
19 under section 702(c)(2), the reasons for exer-  
20 cising the authority under such section;

21               “(C) any directives issued under section  
22 702(h) during the reporting period;

23               “(D) a description of the judicial review  
24 during the reporting period of such certifi-  
25 cations and targeting and minimization proce-  
26 dures adopted in accordance with subsections

1 (d) and (e) of section 702 and utilized with re-  
2 spect to an acquisition under such section, in-  
3 cluding a copy of an order or pleading in con-  
4 nection with such review that contains a signifi-  
5 cant legal interpretation of the provisions of  
6 section 702;

7 “(E) any actions taken to challenge or en-  
8 force a directive under paragraph (4) or (5) of  
9 section 702(h);

10 “(F) any compliance reviews conducted by  
11 the Attorney General or the Director of Na-  
12 tional Intelligence of acquisitions authorized  
13 under section 702(a);

14 “(G) a description of any incidents of non-  
15 compliance—

16 “(i) with a directive issued by the At-  
17 torney General and the Director of Na-  
18 tional Intelligence under section 702(h),  
19 including incidents of noncompliance by a  
20 specified person to whom the Attorney  
21 General and Director of National Intel-  
22 ligence issued a directive under section  
23 702(h); and

24 “(ii) by an element of the intelligence  
25 community with procedures and guidelines

1           adopted in accordance with subsections  
2           (d), (e), and (f) of section 702; and  
3           “(H) any procedures implementing section  
4           702;  
5           “(2) with respect to section 703—  
6           “(A) the total number of applications made  
7           for orders under section 703(b);  
8           “(B) the total number of such orders—  
9           “(i) granted;  
10           “(ii) modified; and  
11           “(iii) denied; and  
12           “(C) the total number of emergency acqui-  
13           sitions authorized by the Attorney General  
14           under section 703(d) and the total number of  
15           subsequent orders approving or denying such  
16           acquisitions; and  
17           “(3) with respect to section 704—  
18           “(A) the total number of applications made  
19           for orders under section 704(b);  
20           “(B) the total number of such orders—  
21           “(i) granted;  
22           “(ii) modified; and  
23           “(iii) denied; and  
24           “(C) the total number of emergency acqui-  
25           sitions authorized by the Attorney General

1 under section 704(d) and the total number of  
2 subsequent orders approving or denying such  
3 applications.

4 **"SEC. 708. SAVINGS PROVISION.**

5 "Nothing in this title shall be construed to limit the  
6 authority of the Government to seek an order or author-  
7 ization under, or otherwise engage in any activity that is  
8 authorized under, any other title of this Act."

9 (b) TABLE OF CONTENTS.—The table of contents in  
10 the first section of the Foreign Intelligence Surveillance  
11 Act of 1978 (50 U.S.C. 1801 et. seq.) is amended—

- 12 (1) by striking the item relating to title VII;  
13 (2) by striking the item relating to section 701;  
14 and  
15 (3) by adding at the end the following:

**"TITLE VII—ADDITIONAL PROCEDURES REGARDING CERTAIN  
PERSONS OUTSIDE THE UNITED STATES**

"Sec. 701. Definitions.

"Sec. 702. Procedures for targeting certain persons outside the United States  
other than United States persons.

"Sec. 703. Certain acquisitions inside the United States targeting United  
States persons outside the United States.

"Sec. 704. Other acquisitions targeting United States persons outside the  
United States.

"Sec. 705. Joint applications and concurrent authorizations.

"Sec. 706. Use of information acquired under title VII.

"Sec. 707. Congressional oversight.

"Sec. 708. Savings provision."

16 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

- 17 (1) TITLE 18, UNITED STATES CODE.—Section  
18 2511(2)(a)(ii)(A) of title 18, United States Code, is  
19 amended by inserting "or a court order pursuant to

1 section 704 of the Foreign Intelligence Surveillance  
2 Act of 1978” after “assistance”.

3 (2) FOREIGN INTELLIGENCE SURVEILLANCE  
4 ACT OF 1978.—Section 601(a)(1) of the Foreign In-  
5 telligence Surveillance Act of 1978 (50 U.S.C.  
6 1871(a)(1)) is amended—

7 (A) in subparagraph (C), by striking  
8 “and”; and

9 (B) by adding at the end the following new  
10 subparagraphs:

11 “(E) acquisitions under section 703; and

12 “(F) acquisitions under section 704;”.

13 **SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH**  
14 **ELECTRONIC SURVEILLANCE AND INTERCEP-**  
15 **TION OF CERTAIN COMMUNICATIONS MAY BE**  
16 **CONDUCTED.**

17 (a) STATEMENT OF EXCLUSIVE MEANS.—Title I of  
18 the Foreign Intelligence Surveillance Act of 1978 (50  
19 U.S.C. 1801 et seq.) is amended by adding at the end  
20 the following new section:

21 “STATEMENT OF EXCLUSIVE MEANS BY WHICH ELEC-  
22 TRONIC SURVEILLANCE AND INTERCEPTION OF CER-  
23 TAIN COMMUNICATIONS MAY BE CONDUCTED

24 “SEC. 112. (a) Except as provided in subsection (b),  
25 the procedures of chapters 119, 121, and 206 of title 18,  
26 United States Code, and this Act shall be the exclusive



1 means by which electronic surveillance and the intercep-  
2 tion of domestic wire, oral, or electronic communications  
3 may be conducted.

4 “(b) Only an express statutory authorization for elec-  
5 tronic surveillance or the interception of domestic wire,  
6 oral, or electronic communications, other than as an  
7 amendment to this Act or chapters 119, 121, or 206 of  
8 title 18, United States Code, shall constitute an additional  
9 exclusive means for the purpose of subsection (a).”.

10 (b) OFFENSE.—Section 109(a) of the Foreign Intel-  
11 ligence Surveillance Act of 1978 (50 U.S.C. 1809(a)) is  
12 amended by striking “authorized by statute” each place  
13 it appears and inserting “authorized by this Act, chapter  
14 119, 121, or 206 of title 18, United States Code, or any  
15 express statutory authorization that is an additional exclu-  
16 sive means for conducting electronic surveillance under  
17 section 112.”; and

18 (c) CONFORMING AMENDMENTS.—

19 (1) TITLE 18, UNITED STATES CODE.—Section  
20 2511(2)(a) of title 18, United States Code, is  
21 amended by adding at the end the following:

22 “(iii) If a certification under subpara-  
23 graph (ii)(B) for assistance to obtain for-  
24 eign intelligence information is based on  
25 statutory authority, the certification shall

1 identify the specific statutory provision and  
2 shall certify that the statutory require-  
3 ments have been met.”; and

4 (2) TABLE OF CONTENTS.—The table of con-  
5 tents in the first section of the Foreign Intelligence  
6 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)  
7 is amended by inserting after the item relating to  
8 section 111, the following new item:

“Sec. 112. Statement of exclusive means by which electronic surveillance and  
interception of certain communications may be conducted.”.

9 **SEC. 103. SUBMITTAL TO CONGRESS OF CERTAIN COURT**  
10 **ORDERS UNDER THE FOREIGN INTEL-**  
11 **LIGENCE SURVEILLANCE ACT OF 1978.**

12 (a) INCLUSION OF CERTAIN ORDERS IN SEMIANNUAL  
13 REPORTS OF ATTORNEY GENERAL.—Subsection (a)(5) of  
14 section 601 of the Foreign Intelligence Surveillance Act  
15 of 1978 (50 U.S.C. 1871) is amended by striking “(not  
16 including orders)” and inserting “, orders,”.

17 (b) REPORTS BY ATTORNEY GENERAL ON CERTAIN  
18 OTHER ORDERS.—Such section 601 is further amended  
19 by adding at the end the following:

20 “(c) SUBMISSIONS TO CONGRESS.—The Attorney  
21 General shall submit to the committees of Congress re-  
22 ferred to in subsection (a)—

23 “(1) a copy of any decision, order, or opinion  
24 issued by the Foreign Intelligence Surveillance Court

1 or the Foreign Intelligence Surveillance Court of Re-  
2 view that includes significant construction or inter-  
3 pretation of any provision of this Act, and any  
4 pleadings, applications, or memoranda of law associ-  
5 ated with such decision, order, or opinion, not later  
6 than 45 days after such decision, order, or opinion  
7 is issued; and

8 “(2) a copy of each such decision, order, or  
9 opinion, and any pleadings, applications, or memo-  
10 randa of law associated with such decision, order, or  
11 opinion, that was issued during the 5-year period  
12 ending on the date of the enactment of the FISA  
13 Amendments Act of 2008 and not previously sub-  
14 mitted in a report under subsection (a).

15 “(d) PROTECTION OF NATIONAL SECURITY.—The  
16 Attorney General, in consultation with the Director of Na-  
17 tional Intelligence, may authorize redactions of materials  
18 described in subsection (c) that are provided to the com-  
19 mittees of Congress referred to in subsection (a), if such  
20 redactions are necessary to protect the national security  
21 of the United States and are limited to sensitive sources  
22 and methods information or the identities of targets.”.

23 (c) DEFINITIONS.—Such section 601, as amended by  
24 subsections (a) and (b), is further amended by adding at  
25 the end the following:

1 “(e) DEFINITIONS.—In this section:

2 “(1) FOREIGN INTELLIGENCE SURVEILLANCE  
3 COURT.—The term ‘Foreign Intelligence Surveillance  
4 Court’ means the court established under section  
5 103(a).

6 “(2) FOREIGN INTELLIGENCE SURVEILLANCE  
7 COURT OF REVIEW.—The term ‘Foreign Intelligence  
8 Surveillance Court of Review’ means the court estab-  
9 lished under section 103(b).”.

10 **SEC. 104. APPLICATIONS FOR COURT ORDERS.**

11 Section 104 of the Foreign Intelligence Surveillance  
12 Act of 1978 (50 U.S.C. 1804) is amended—

13 (1) in subsection (a)—

14 (A) by striking paragraphs (2) and (11);

15 (B) by redesignating paragraphs (3)  
16 through (10) as paragraphs (2) through (9), re-  
17 spectively;

18 (C) in paragraph (5), as redesignated by  
19 subparagraph (B) of this paragraph, by striking  
20 “detailed”;

21 (D) in paragraph (6), as redesignated by  
22 subparagraph (B) of this paragraph, in the  
23 matter preceding subparagraph (A)—

24 (i) by striking “Affairs or” and insert-  
25 ing “Affairs,”; and

1 (ii) by striking “Senate—” and insert-  
2 ing “Senate, or the Deputy Director of the  
3 Federal Bureau of Investigation, if des-  
4 ignated by the President as a certifying of-  
5 ficial—”;

6 (E) in paragraph (7), as redesignated by  
7 subparagraph (B) of this paragraph, by striking  
8 “statement of” and inserting “summary state-  
9 ment of”;

10 (F) in paragraph (8), as redesignated by  
11 subparagraph (B) of this paragraph, by adding  
12 “and” at the end; and

13 (G) in paragraph (9), as redesignated by  
14 subparagraph (B) of this paragraph, by striking  
15 “; and” and inserting a period;

16 (2) by striking subsection (b);  
17 (3) by redesignating subsections (c) through (e)  
18 as subsections (b) through (d), respectively; and

19 (4) in paragraph (1)(A) of subsection (d), as re-  
20 designating by paragraph (3) of this subsection, by  
21 striking “or the Director of National Intelligence”  
22 and inserting “the Director of National Intelligence,  
23 or the Director of the Central Intelligence Agency”.

1 **SEC. 105. ISSUANCE OF AN ORDER.**

2 (a) IN GENERAL.—Section 105 of the Foreign Intel-  
3 ligence Surveillance Act of 1978 (50 U.S.C. 1805) is  
4 amended—

5 (1) in subsection (a)—

6 (A) by striking paragraph (1); and

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

10 (2) in subsection (b), by striking “(a)(3)” and  
11 inserting “(a)(2)”;

12 (3) in subsection (c)(1)—

13 (A) in subparagraph (D), by adding “and”  
14 at the end;

15 (B) in subparagraph (E), by striking “;  
16 and” and inserting a period; and

17 (C) by striking subparagraph (F);

18 (4) by striking subsection (d);

19 (5) by redesignating subsections (e) through (i)  
20 as subsections (d) through (h), respectively;

21 (6) by amending subsection (e), as redesignated  
22 by paragraph (5) of this section, to read as follows:

23 “(e)(1) Notwithstanding any other provision of this  
24 title, the Attorney General may authorize the emergency  
25 employment of electronic surveillance if the Attorney Gen-  
26 eral—

1           “(A) reasonably determines that an emergency  
2           situation exists with respect to the employment of  
3           electronic surveillance to obtain foreign intelligence  
4           information before an order authorizing such surveil-  
5           lance can with due diligence be obtained;

6           “(B) reasonably determines that the factual  
7           basis for the issuance of an order under this title to  
8           approve such electronic surveillance exists;

9           “(C) informs, either personally or through a  
10          designee, a judge having jurisdiction under section  
11          103 at the time of such authorization that the deci-  
12          sion has been made to employ emergency electronic  
13          surveillance; and

14          “(D) makes an application in accordance with  
15          this title to a judge having jurisdiction under section  
16          103 as soon as practicable, but not later than 7 days  
17          after the Attorney General authorizes such surveil-  
18          lance.

19          “(2) If the Attorney General authorizes the emer-  
20          gency employment of electronic surveillance under para-  
21          graph (1), the Attorney General shall require that the  
22          minimization procedures required by this title for the  
23          issuance of a judicial order be followed.

24          “(3) In the absence of a judicial order approving such  
25          electronic surveillance, the surveillance shall terminate

1 when the information sought is obtained, when the appli-  
2 cation for the order is denied, or after the expiration of  
3 7 days from the time of authorization by the Attorney  
4 General, whichever is earliest.

5 “(4) A denial of the application made under this sub-  
6 section may be reviewed as provided in section 103.

7 “(5) In the event that such application for approval  
8 is denied, or in any other case where the electronic surveil-  
9 lance is terminated and no order is issued approving the  
10 surveillance, no information obtained or evidence derived  
11 from such surveillance shall be received in evidence or oth-  
12 erwise disclosed in any trial, hearing, or other proceeding  
13 in or before any court, grand jury, department, office,  
14 agency, regulatory body, legislative committee, or other  
15 authority of the United States, a State, or political sub-  
16 division thereof, and no information concerning any  
17 United States person acquired from such surveillance shall  
18 subsequently be used or disclosed in any other manner by  
19 Federal officers or employees without the consent of such  
20 person, except with the approval of the Attorney General  
21 if the information indicates a threat of death or serious  
22 bodily harm to any person.

23 “(6) The Attorney General shall assess compliance  
24 with the requirements of paragraph (5).”; and

25 (7) by adding at the end the following:



1       “(i) In any case in which the Government makes an  
2 application to a judge under this title to conduct electronic  
3 surveillance involving communications and the judge  
4 grants such application, upon the request of the applicant,  
5 the judge shall also authorize the installation and use of  
6 pen registers and trap and trace devices, and direct the  
7 disclosure of the information set forth in section  
8 402(d)(2).”.

9       (b)       CONFORMING        AMENDMENT.—Section  
10 108(a)(2)(C) of the Foreign Intelligence Surveillance Act  
11 of 1978 (50 U.S.C. 1808(a)(2)(C)) is amended by striking  
12 “105(f)” and inserting “105(e)”;

13 **SEC. 106. USE OF INFORMATION.**

14       Subsection (i) of section 106 of the Foreign Intel-  
15 ligence Surveillance Act of 1978 (8 U.S.C. 1806) is  
16 amended by striking “radio communication” and inserting  
17 “communication”.

18 **SEC. 107. AMENDMENTS FOR PHYSICAL SEARCHES.**

19       (a) APPLICATIONS.—Section 303 of the Foreign In-  
20 telligence Surveillance Act of 1978 (50 U.S.C. 1823) is  
21 amended—

22               (1) in subsection (a)—

23                       (A) by striking paragraph (2);

1 (B) by redesignating paragraphs (3)  
2 through (9) as paragraphs (2) through (8), re-  
3 spectively;

4 (C) in paragraph (2), as redesignated by  
5 subparagraph (B) of this paragraph, by striking  
6 “detailed”;

7 (D) in paragraph (3)(C), as redesignated  
8 by subparagraph (B) of this paragraph, by in-  
9 serting “or is about to be” before “owned”; and

10 (E) in paragraph (6), as redesignated by  
11 subparagraph (B) of this paragraph, in the  
12 matter preceding subparagraph (A)—

13 (i) by striking “Affairs or” and insert-  
14 ing “Affairs,”; and

15 (ii) by striking “Senate—” and insert-  
16 ing “Senate, or the Deputy Director of the  
17 Federal Bureau of Investigation, if des-  
18 igned by the President as a certifying of-  
19 ficial—”; and

20 (2) in subsection (d)(1)(A), by striking “or the  
21 Director of National Intelligence” and inserting “the  
22 Director of National Intelligence, or the Director of  
23 the Central Intelligence Agency”.

1 (b) ORDERS.—Section 304 of the Foreign Intel-  
2 ligence Surveillance Act of 1978 (50 U.S.C. 1824) is  
3 amended—

4 (1) in subsection (a)—

5 (A) by striking paragraph (1);

6 (B) by redesignating paragraphs (2)  
7 through (5) as paragraphs (1) through (4), re-  
8 spectively; and

9 (C) in paragraph (2)(B), as redesignated  
10 by subparagraph (B) of this paragraph, by in-  
11 serting “or is about to be” before “owned”; and  
12 (2) by amending subsection (e) to read as fol-  
13 lows:

14 “(e)(1) Notwithstanding any other provision of this  
15 title, the Attorney General may authorize the emergency  
16 employment of a physical search if the Attorney General—

17 “(A) reasonably determines that an emergency  
18 situation exists with respect to the employment of a  
19 physical search to obtain foreign intelligence infor-  
20 mation before an order authorizing such physical  
21 search can with due diligence be obtained;

22 “(B) reasonably determines that the factual  
23 basis for issuance of an order under this title to ap-  
24 prove such physical search exists;

1           “(C) informs, either personally or through a  
2           designee, a judge of the Foreign Intelligence Surveil-  
3           lance Court at the time of such authorization that  
4           the decision has been made to employ an emergency  
5           physical search; and

6           “(D) makes an application in accordance with  
7           this title to a judge of the Foreign Intelligence Sur-  
8           veillance Court as soon as practicable, but not more  
9           than 7 days after the Attorney General authorizes  
10          such physical search.

11          “(2) If the Attorney General authorizes the emer-  
12          gency employment of a physical search under paragraph  
13          (1), the Attorney General shall require that the minimiza-  
14          tion procedures required by this title for the issuance of  
15          a judicial order be followed.

16          “(3) In the absence of a judicial order approving such  
17          physical search, the physical search shall terminate when  
18          the information sought is obtained, when the application  
19          for the order is denied, or after the expiration of 7 days  
20          from the time of authorization by the Attorney General,  
21          whichever is earliest.

22          “(4) A denial of the application made under this sub-  
23          section may be reviewed as provided in section 103.

24          “(5) In the event that such application for approval  
25          is denied, or in any other case where the physical search

1 is terminated and no order is issued approving the phys-  
2 ical search, no information obtained or evidence derived  
3 from such physical search shall be received in evidence or  
4 otherwise disclosed in any trial, hearing, or other pro-  
5 ceeding in or before any court, grand jury, department,  
6 office, agency, regulatory body, legislative committee, or  
7 other authority of the United States, a State, or political  
8 subdivision thereof, and no information concerning any  
9 United States person acquired from such physical search  
10 shall subsequently be used or disclosed in any other man-  
11 ner by Federal officers or employees without the consent  
12 of such person, except with the approval of the Attorney  
13 General if the information indicates a threat of death or  
14 serious bodily harm to any person.

15 “(6) The Attorney General shall assess compliance  
16 with the requirements of paragraph (5).”

17 (c) CONFORMING AMENDMENTS.—The Foreign Intel-  
18 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)  
19 is amended—

20 (1) in section 304(a)(4), as redesignated by  
21 subsection (b) of this section, by striking  
22 “303(a)(7)(E)” and inserting “303(a)(6)(E)”; and

23 (2) in section 305(k)(2), by striking  
24 “303(a)(7)” and inserting “303(a)(6)”.

1 **SEC. 108. AMENDMENTS FOR EMERGENCY PEN REGISTERS**  
2 **AND TRAP AND TRACE DEVICES.**

3 Section 403 of the Foreign Intelligence Surveillance  
4 Act of 1978 (50 U.S.C. 1843) is amended—

5 (1) in subsection (a)(2), by striking “48 hours”  
6 and inserting “7 days”; and

7 (2) in subsection (c)(1)(C), by striking “48  
8 hours” and inserting “7 days”.

9 **SEC. 109. FOREIGN INTELLIGENCE SURVEILLANCE COURT.**

10 (a) **DESIGNATION OF JUDGES.**—Subsection (a) of  
11 section 103 of the Foreign Intelligence Surveillance Act  
12 of 1978 (50 U.S.C. 1803) is amended by inserting “at  
13 least” before “seven of the United States judicial cir-  
14 cuits”.

15 (b) **EN BANC AUTHORITY.**—

16 (1) **IN GENERAL.**—Subsection (a) of section  
17 103 of the Foreign Intelligence Surveillance Act of  
18 1978, as amended by subsection (a) of this section,  
19 is further amended—

20 (A) by inserting “(1)” after “(a)”; and

21 (B) by adding at the end the following new  
22 paragraph:

23 “(2)(A) The court established under this subsection  
24 may, on its own initiative, or upon the request of the Gov-  
25 ernment in any proceeding or a party under section 501(f)  
26 or paragraph (4) or (5) of section 702(h), hold a hearing

1 or rehearing, en banc, when ordered by a majority of the  
2 judges that constitute such court upon a determination  
3 that—

4 “(i) en banc consideration is necessary to se-  
5 cure or maintain uniformity of the court’s decisions;  
6 or

7 “(ii) the proceeding involves a question of ex-  
8 ceptional importance.

9 “(B) Any authority granted by this Act to a judge  
10 of the court established under this subsection may be exer-  
11 cised by the court en banc. When exercising such author-  
12 ity, the court en banc shall comply with any requirements  
13 of this Act on the exercise of such authority.

14 “(C) For purposes of this paragraph, the court en  
15 banc shall consist of all judges who constitute the court  
16 established under this subsection.”

17 (2) CONFORMING AMENDMENTS.—The Foreign  
18 Intelligence Surveillance Act of 1978 is further  
19 amended—

20 (A) in subsection (a) of section 103, as  
21 amended by this subsection, by inserting “(ex-  
22 cept when sitting en banc under paragraph  
23 (2))” after “no judge designated under this  
24 subsection”; and

1 (B) in section 302(c) (50 U.S.C. 1822(c)),  
2 by inserting “(except when sitting en banc)”  
3 after “except that no judge”.

4 (c) STAY OR MODIFICATION DURING AN APPEAL.—  
5 Section 103 of the Foreign Intelligence Surveillance Act  
6 of 1978 (50 U.S.C. 1803) is amended—

7 (1) by redesignating subsection (f) as sub-  
8 section (g); and

9 (2) by inserting after subsection (e) the fol-  
10 lowing new subsection:

11 “(f)(1) A judge of the court established under sub-  
12 section (a), the court established under subsection (b) or  
13 a judge of that court, or the Supreme Court of the United  
14 States or a justice of that court, may, in accordance with  
15 the rules of their respective courts, enter a stay of an order  
16 or an order modifying an order of the court established  
17 under subsection (a) or the court established under sub-  
18 section (b) entered under any title of this Act, while the  
19 court established under subsection (a) conducts a rehear-  
20 ing, while an appeal is pending to the court established  
21 under subsection (b), or while a petition of certiorari is  
22 pending in the Supreme Court of the United States, or  
23 during the pendency of any review by that court.



1       “(2) The authority described in paragraph (1) shall  
2 apply to an order entered under any provision of this  
3 Act.”.

4       (d) **AUTHORITY OF FOREIGN INTELLIGENCE SUR-**  
5 **VEILLANCE COURT.**—Section 103 of the Foreign Intel-  
6 ligence Surveillance Act of 1978 (50 U.S.C. 1803), as  
7 amended by this Act, is amended by adding at the end  
8 the following:

9       “(i) Nothing in this Act shall be construed to reduce  
10 or contravene the inherent authority of the court estab-  
11 lished under subsection (a) to determine or enforce compli-  
12 ance with an order or a rule of such court or with a proce-  
13 dure approved by such court.”.

14 **SEC. 110. WEAPONS OF MASS DESTRUCTION.**

15       (a) **DEFINITIONS.**—

16           (1) **FOREIGN POWER.**—Subsection (a) of sec-  
17 tion 101 of the Foreign Intelligence Surveillance Act  
18 of 1978 (50 U.S.C. 1801(a)) is amended—

19           (A) in paragraph (5), by striking “persons;  
20 or” and inserting “persons;”;

21           (B) in paragraph (6) by striking the period  
22 and inserting “; or”; and

23           (C) by adding at the end the following new  
24 paragraph:

1           “(7) an entity not substantially composed of  
2           United States persons that is engaged in the inter-  
3           national proliferation of weapons of mass destruc-  
4           tion.”.

5           (2) AGENT OF A FOREIGN POWER.—Subsection  
6           (b)(1) of such section 101 is amended—

7                   (A) in subparagraph (B), by striking “or”  
8                   at the end;

9                   (B) in subparagraph (C), by striking “or”  
10                  at the end; and

11                  (C) by adding at the end the following new  
12                  subparagraphs:

13                   “(D) engages in the international prolifera-  
14                   tion of weapons of mass destruction, or activi-  
15                   ties in preparation therefor; or

16                   “(E) engages in the international prolifera-  
17                   tion of weapons of mass destruction, or activi-  
18                   ties in preparation therefor for or on behalf of  
19                   a foreign power; or”.

20           (3) FOREIGN INTELLIGENCE INFORMATION.—  
21           Subsection (e)(1)(B) of such section 101 is amended  
22           by striking “sabotage or international terrorism”  
23           and inserting “sabotage, international terrorism, or  
24           the international proliferation of weapons of mass  
25           destruction”.