

1 for the record of the reasons for a decision under
2 this paragraph.

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

10 **“SEC. 705. JOINT APPLICATIONS AND CONCURRENT AU-**
11 **THORIZATIONS.**

12 “(a) JOINT APPLICATIONS AND ORDERS.—If an ac-
13 quisition targeting a United States person under section
14 703 or 704 is proposed to be conducted both inside and
15 outside the United States, a judge having jurisdiction
16 under section 703(a)(1) or 704(a)(1) may issue simulta-
17 neously, upon the request of the Government in a joint
18 application complying with the requirements of sections
19 703(b) and 704(b), orders under sections 703(c) and
20 704(c), as appropriate.

21 “(b) CONCURRENT AUTHORIZATION.—If an order
22 authorizing electronic surveillance or physical search has
23 been obtained under section 105 or 304, the Attorney
24 General may authorize, for the effective period of that
25 order, without an order under section 703 or 704, the tar-

1 getting of that United States person for the purpose of ac-
2 quiring foreign intelligence information while such person
3 is reasonably believed to be located outside the United
4 States.

5 **"SEC. 706. USE OF INFORMATION ACQUIRED UNDER TITLE**

6 **VII.**

7 "(a) INFORMATION ACQUIRED UNDER SECTION
8 702.—Information acquired from an acquisition con-
9 ducted under section 702 shall be deemed to be informa-
10 tion acquired from an electronic surveillance pursuant to
11 title I for purposes of section 106, except for the purposes
12 of subsection (j) of such section.

13 "(b) INFORMATION ACQUIRED UNDER SECTION
14 703.—Information acquired from an acquisition con-
15 ducted under section 703 shall be deemed to be informa-
16 tion acquired from an electronic surveillance pursuant to
17 title I for purposes of section 106.

18 **"SEC. 707. CONGRESSIONAL OVERSIGHT.**

19 "(a) SEMI-ANNUAL REPORT.—Not less frequently
20 than once every 6 months, the Attorney General shall fully
21 inform, in a manner consistent with national security, the
22 congressional intelligence committees and the Committees
23 on the Judiciary of the Senate and the House of Rep-
24 resentatives, consistent with the Rules of the House of
25 Representatives, the Standing Rules of the Senate, and

1 Senate Resolution 400 of the 94th Congress or any suc-
2 cessor Senate resolution, concerning the implementation
3 of this title.

4 “(b) CONTENT.—Each report under subsection (a)
5 shall include—

6 “(1) with respect to section 702—

7 “(A) any certifications submitted in ac-
8 cordance with section 702(g) during the report-
9 ing period;

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

13 “(C) any directives issued under section
14 702(h) during the reporting period;

15 “(D) a description of the judicial review
16 during the reporting period of such certifi-
17 cations and targeting and minimization proce-
18 dures adopted in accordance with subsections
19 (d) and (e) of section 702 and utilized with re-
20 spect to an acquisition under such section, in-
21 cluding a copy of an order or pleading in con-
22 nection with such review that contains a signifi-
23 cant legal interpretation of the provisions of
24 section 702;

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

4 “(F) any compliance reviews conducted by
5 the Attorney General or the Director of Na-
6 tional Intelligence of acquisitions authorized
7 under section 702(a);

8 “(G) a description of any incidents of non-
9 compliance—

10 “(i) with a directive issued by the At-
11 torney General and the Director of Na-
12 tional Intelligence under section 702(h),
13 including incidents of noncompliance by a
14 specified person to whom the Attorney
15 General and Director of National Intel-
16 ligence issued a directive under section
17 702(h); and

18 “(ii) by an element of the intelligence
19 community with procedures and guidelines
20 adopted in accordance with subsections
21 (d), (e), and (f) of section 702; and

22 “(H) any procedures implementing section
23 702;

24 “(2) with respect to section 703—

1 “(A) the total number of applications made
2 for orders under section 703(b);

3 “(B) the total number of such orders—

4 “(i) granted;

5 “(ii) modified; and

6 “(iii) denied; and

7 “(C) the total number of emergency acqui-
8 sitions authorized by the Attorney General
9 under section 703(d) and the total number of
10 subsequent orders approving or denying such
11 acquisitions; and

12 “(3) with respect to section 704—

13 “(A) the total number of applications made
14 for orders under section 704(b);

15 “(B) the total number of such orders—

16 “(i) granted;

17 “(ii) modified; and

18 “(iii) denied; and

19 “(C) the total number of emergency acqui-
20 sitions authorized by the Attorney General
21 under section 704(d) and the total number of
22 subsequent orders approving or denying such
23 applications.

1 **“SEC. 708. SAVINGS PROVISION.**

2 “Nothing in this title shall be construed to limit the
3 authority of the Government to seek an order or author-
4 ization under, or otherwise engage in any activity that is
5 authorized under, any other title of this Act.”.

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

9 (1) by striking the item relating to title VII;

10 (2) by striking the item relating to section 701;

11 and

12 (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.”.

13 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

14 (1) TITLE 18, UNITED STATES CODE.—Section
15 2511(2)(a)(ii)(A) of title 18, United States Code, is
16 amended by inserting “or a court order pursuant to
17 section 704 of the Foreign Intelligence Surveillance
18 Act of 1978” after “assistance”.

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

5 (A) in subparagraph (C), by striking
6 “and”; and

7 (B) by adding at the end the following new
8 subparagraphs:

9 “(E) acquisitions under section 703; and

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

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

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

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

22 “SEC. 112. (a) Except as provided in subsection (b),
23 the procedures of chapters 119, 121, and 206 of title 18,
24 United States Code, and this Act shall be the exclusive
25 means by which electronic surveillance and the intercep-

1 tion of domestic wire, oral, or electronic communications
2 may be conducted.

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

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

17 (c) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(e) DEFINITIONS.—In this section:

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

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

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

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

12 (1) in subsection (a)—

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

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

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

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

23 (i) by striking “Affairs or” and insert-
24 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 ignated 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”.

1 (4) WEAPON OF MASS DESTRUCTION.—Such
2 section 101 is amended by adding at the end the fol-
3 lowing new subsection:

4 “(p) ‘Weapon of mass destruction’ means—

5 “(1) any explosive, incendiary, or poison gas de-
6 vice that is designed, intended, or has the capability
7 to cause a mass casualty incident;

8 “(2) any weapon that is designed, intended, or
9 has the capability to cause death or serious bodily
10 injury to a significant number of persons through
11 the release, dissemination, or impact of toxic or poi-
12 sonous chemicals or their precursors;

13 “(3) any weapon involving a biological agent,
14 toxin, or vector (as such terms are defined in section
15 178 of title 18, United States Code) that is de-
16 signed, intended, or has the capability to cause
17 death, illness, or serious bodily injury to a signifi-
18 cant number of persons; or

19 “(4) any weapon that is designed, intended, or
20 has the capability to release radiation or radioac-
21 tivity causing death, illness, or serious bodily injury
22 to a significant number of persons.”.

23 (b) USE OF INFORMATION.—

24 (1) IN GENERAL.—Section 106(k)(1)(B) of the
25 Foreign Intelligence Surveillance Act of 1978 (50