

115TH CONGRESS
1ST SESSION

S. 1997

To amend the Foreign Intelligence Surveillance Act of 1978 to protect privacy rights, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 24, 2017

Mr. WYDEN (for himself, Mr. PAUL, Mr. UDALL, Ms. BALDWIN, Mr. HEINRICH, Ms. HIRONO, Mr. MERKLEY, Mr. MARKEY, Mr. SANDERS, Ms. WARREN, Mr. TESTER, Mr. HELLER, Mr. LEE, and Mr. DAINES) 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 protect privacy rights, 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 “Uniting and Strengthening America by Reforming and
6 Improving the Government’s High-Tech Surveillance Act
7 of 2017” or the “USA RIGHTS Act of 2017”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Clarification on prohibition on querying of collections of communications to conduct warrantless queries for the communications of United States persons and persons inside the United States.
- Sec. 3. Prohibition on reverse targeting under certain authorities of the Foreign Intelligence Surveillance Act of 1978.
- Sec. 4. Prohibition on acquisition, pursuant to certain FISA authorities to target certain persons outside the United States, of communications that do not include persons targeted under such authorities.
- Sec. 5. Prohibition on acquisition of entirely domestic communications under authorities to target certain persons outside the United States.
- Sec. 6. Limitation on use of information obtained under certain authority of Foreign Intelligence Surveillance Act of 1978 relating to United States persons.
- Sec. 7. Reforms of the Privacy and Civil Liberties Oversight Board.
- Sec. 8. Improved role in oversight of electronic surveillance by amici curiae appointed by courts under Foreign Intelligence Surveillance Act of 1978.
- Sec. 9. Reforms to the Foreign Intelligence Surveillance Court.
- Sec. 10. Study and report on diversity and representation on the FISA Court and the FISA Court of Review.
- Sec. 11. Grounds for determining injury in fact in civil action relating to surveillance under certain provisions of Foreign Intelligence Surveillance Act of 1978.
- Sec. 12. Clarification of applicability of requirement to declassify significant decisions of Foreign Intelligence Surveillance Court and Foreign Intelligence Surveillance Court of Review.
- Sec. 13. Clarification regarding treatment of information acquired under Foreign Intelligence Surveillance Act of 1978.
- Sec. 14. Limitation on technical assistance from electronic communication service providers under the Foreign Intelligence Surveillance Act of 1978.
- Sec. 15. Modification of authorities for public reporting by persons subject to nondisclosure requirement accompanying order under Foreign Intelligence Surveillance Act of 1978.
- Sec. 16. Annual publication of statistics on number of persons targeted outside the United States under certain Foreign Intelligence Surveillance Act of 1978 authority.
- Sec. 17. Repeal of nonapplicability to Federal Bureau of Investigation of certain reporting requirements under Foreign Intelligence Surveillance Act of 1978.
- Sec. 18. Publication of estimates regarding communications collected under certain provision of Foreign Intelligence Surveillance Act of 1978.
- Sec. 19. Four-year extension of FISA Amendments Act of 2008.

1 **SEC. 2. CLARIFICATION ON PROHIBITION ON QUERYING OF**
 2 **COLLECTIONS OF COMMUNICATIONS TO**
 3 **CONDUCT WARRANTLESS QUERIES FOR THE**
 4 **COMMUNICATIONS OF UNITED STATES PER-**
 5 **SONS AND PERSONS INSIDE THE UNITED**
 6 **STATES.**

7 Section 702(b) of the Foreign Intelligence Surveil-
 8 lance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

9 (1) by redesignating paragraphs (1) through
 10 (5) as subparagraphs (A) through (E), respectively,
 11 and indenting such subparagraphs, as so redesign-
 12 ated, an additional two ems from the left margin;

13 (2) by striking “An acquisition” and inserting
 14 the following:

15 “(1) IN GENERAL.—An acquisition”; and

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

17 “(2) CLARIFICATION ON PROHIBITION ON
 18 QUERYING OF COLLECTIONS OF COMMUNICATIONS
 19 OF UNITED STATES PERSONS AND PERSONS INSIDE
 20 THE UNITED STATES.—

21 “(A) IN GENERAL.—Except as provided in
 22 subparagraphs (B) and (C), no officer or em-
 23 ployee of the United States may conduct a
 24 query of information acquired under this sec-
 25 tion in an effort to find communications of or

1 about a particular United States person or a
2 person inside the United States.

3 “(B) CONCURRENT AUTHORIZATION AND
4 EXCEPTION FOR EMERGENCY SITUATIONS.—
5 Subparagraph (A) shall not apply to a query for
6 communications related to a particular United
7 States person or person inside the United
8 States if—

9 “(i) such United States person or per-
10 son inside the United States is the subject
11 of an order or emergency authorization au-
12 thORIZING electronic surveillance or physical
13 search under section 105, 304, 703, 704,
14 or 705 of this Act, or under title 18,
15 United States Code, for the effective period
16 of that order;

17 “(ii) the entity carrying out the query
18 has a reasonable belief that the life or safe-
19 ty of such United States person or person
20 inside the United States is threatened and
21 the information is sought for the purpose
22 of assisting that person;

23 “(iii) such United States person or
24 person in the United States is a corpora-
25 tion; or

1 “(iv) such United States person or
2 person inside the United States has con-
3 sented to the query.

4 “(C) QUERIES OF FEDERATED DATA SETS
5 AND MIXED DATA.—If an officer or employee of
6 the United States conducts a query of a data
7 set, or of federated data sets, that includes any
8 information acquired under this section, the
9 system shall be configured not to return such
10 information unless the officer or employee en-
11 ters a code or other information indicating
12 that—

13 “(i) the person associated with the
14 search term is not a United States person
15 or person inside the United States; or

16 “(ii) if the person associated with the
17 search term is a United States person or
18 person inside the United States, one or
19 more of the conditions of subparagraph
20 (B) are satisfied.

21 “(D) MATTERS RELATING TO EMERGENCY
22 QUERIES.—

23 “(i) TREATMENT OF DENIALS.—In
24 the event that a query for communications
25 related to a particular United States per-

1 son or a person inside the United States is
2 conducted pursuant to an emergency au-
3 thorization authorizing electronic surveil-
4 lance or a physical search described in sub-
5 section (B)(i) and the application for such
6 emergency authorization is denied, or in
7 any other case in which the query has been
8 conducted and no order is issued approving
9 the query—

10 “(I) no information obtained or
11 evidence derived from such query may
12 be received in evidence or otherwise
13 disclosed in any trial, hearing, or
14 other proceeding in or before any
15 court, grand jury, department, office,
16 agency, regulatory body, legislative
17 committee, or other authority of the
18 United States, a State, or political
19 subdivision thereof; and

20 “(II) no information concerning
21 any United States person acquired
22 from such query may subsequently be
23 used or disclosed in any other manner
24 by Federal officers or employees with-
25 out the consent of such person, except

1 with the approval of the Attorney
 2 General if the information indicates a
 3 threat of death or serious bodily harm
 4 to any person.

5 “(ii) ASSESSMENT OF COMPLIANCE.—
 6 The Attorney General shall assess compli-
 7 ance with the requirements under clause
 8 (i).”.

9 **SEC. 3. PROHIBITION ON REVERSE TARGETING UNDER**
 10 **CERTAIN AUTHORITIES OF THE FOREIGN IN-**
 11 **TELLIGENCE SURVEILLANCE ACT OF 1978.**

12 Section 702 of the Foreign Intelligence Surveillance
 13 Act of 1978 (50 U.S.C. 1881a), as amended by section
 14 2, is further amended—

15 (1) in subsection (b)(1)(B), as redesignated by
 16 section 2, by striking “the purpose of such acquisi-
 17 tion is to target” and inserting “a significant pur-
 18 pose of such acquisition is to acquire the commu-
 19 nications of”;

20 (2) in subsection (d)(1)(A)—

21 (A) by striking “ensure that” and insert-
 22 ing the following: “ensure—

23 “(i) that”; and

24 (B) by adding at the end the following:

1 “(ii) that an application is filed under
2 title I, if otherwise required, when a sig-
3 nificant purpose of an acquisition author-
4 ized under subsection (a) is to acquire the
5 communications of a particular, known
6 person reasonably believed to be located in
7 the United States; and”;

8 (3) in subsection (g)(2)(A)(i)(I)—

9 (A) by striking “ensure that” and insert-
10 ing the following: “ensure—

11 “(aa) that”; and

12 (B) by adding at the end the following:

13 “(bb) that an application is
14 filed under title I, if otherwise re-
15 quired, when a significant pur-
16 pose of an acquisition authorized
17 under subsection (a) is to acquire
18 the communications of a par-
19 ticular, known person reasonably
20 believed to be located in the
21 United States; and”; and

22 (4) in subsection (i)(2)(B)(i)—

23 (A) by striking “ensure that” and insert-
24 ing the following: “ensure—

25 “(I) that”; and

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

2 “(II) that an application is filed
3 under title I, if otherwise required,
4 when a significant purpose of an ac-
5 quisition authorized under subsection
6 (a) is to acquire the communications
7 of a particular, known person reason-
8 ably believed to be located in the
9 United States; and”.

10 **SEC. 4. PROHIBITION ON ACQUISITION, PURSUANT TO CER-**
11 **TAIN FISA AUTHORITIES TO TARGET CER-**
12 **TAIN PERSONS OUTSIDE THE UNITED**
13 **STATES, OF COMMUNICATIONS THAT DO NOT**
14 **INCLUDE PERSONS TARGETED UNDER SUCH**
15 **AUTHORITIES.**

16 Section 702(b)(1) of the Foreign Intelligence Surveil-
17 lance Act of 1978, as redesignated by section 2, is amend-
18 ed—

19 (1) in subparagraph (D), as redesignated by
20 section 2, by striking “; and” and inserting a semi-
21 colon;

22 (2) by redesignating subparagraph (E) as sub-
23 paragraph (G); and

24 (3) by inserting after subparagraph (D) the fol-
25 lowing:

1 “(E) may not acquire a communication as
2 to which no participant is a person who is tar-
3 geted pursuant to the authorized acquisition;”.

4 **SEC. 5. PROHIBITION ON ACQUISITION OF ENTIRELY DO-**
5 **MESTIC COMMUNICATIONS UNDER AUTHORI-**
6 **TIES TO TARGET CERTAIN PERSONS OUTSIDE**
7 **THE UNITED STATES.**

8 Section 702(b)(1) of the Foreign Intelligence Surveil-
9 lance Act of 1978, as redesignated by section 2 and
10 amended by section 4, is further amended by inserting
11 after subparagraph (E), as added by section 4, the fol-
12 lowing:

13 “(F) may not acquire communications
14 known to be entirely domestic; and”.

15 **SEC. 6. LIMITATION ON USE OF INFORMATION OBTAINED**
16 **UNDER CERTAIN AUTHORITY OF FOREIGN IN-**
17 **TELLIGENCE SURVEILLANCE ACT OF 1978 RE-**
18 **LATING TO UNITED STATES PERSONS.**

19 Section 706(a) of the Foreign Intelligence Surveil-
20 lance Act of 1978 (50 U.S.C. 1881e(a)) is amended—

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

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

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

1 “(2) LIMITATION ON USE IN CRIMINAL, CIVIL,
2 AND ADMINISTRATIVE PROCEEDINGS AND INVES-
3 TIGATIONS.—No communication to or from, or infor-
4 mation about, a person acquired under section 702
5 who is either a United States person or is located in
6 the United States may be introduced as evidence
7 against the person in any criminal, civil, or adminis-
8 trative proceeding or used as part of any criminal,
9 civil, or administrative investigation, except—

10 “(A) with the prior approval of the Attor-
11 ney General; and

12 “(B) in a proceeding or investigation in
13 which the information is directly related to and
14 necessary to address a specific threat of—

15 “(i) terrorism (as defined in clauses
16 (i) through (iii) of section 2332(g)(5)(B)
17 of title 18, United States Code);

18 “(ii) espionage (as used in chapter 37
19 of title 18, United States Code);

20 “(iii) proliferation or use of a weapon
21 of mass destruction (as defined in section
22 2332a(c) of title 18, United States Code);

23 “(iv) a cybersecurity threat from a
24 foreign country;

1 “(v) incapacitation or destruction of
2 critical infrastructure (as defined in section
3 1016(e) of the Uniting and Strengthening
4 America by Providing Appropriate Tools
5 Required to Intercept and Obstruct Ter-
6 rorism (USA PATRIOT ACT) Act of 2001
7 (42 U.S.C. 5195c(e)); or

8 “(vi) a threat to the armed forces of
9 the United States or an ally of the United
10 States or to other personnel of the United
11 States Government or a government of an
12 ally of the United States.”.

13 **SEC. 7. REFORMS OF THE PRIVACY AND CIVIL LIBERTIES**
14 **OVERSIGHT BOARD.**

15 (a) INCLUSION OF FOREIGN INTELLIGENCE ACTIVI-
16 TIES IN OVERSIGHT AUTHORITY OF THE PRIVACY AND
17 CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061 of
18 the Intelligence Reform and Terrorism Prevention Act of
19 2004 (42 U.S.C. 2000ee) is amended—

20 (1) in subsection (c), by inserting “and to con-
21 duct foreign intelligence activities” after “terrorism”
22 each place such term appears; and

23 (2) in subsection (d), “and to conduct foreign
24 intelligence activities” after “terrorism” each place
25 such term appears.

1 (b) SUBMISSION OF WHISTLEBLOWER COMPLAINTS
2 TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT
3 BOARD.—

4 (1) IN GENERAL.—Section 1061 of the Intel-
5 ligence Reform and Terrorism Prevention Act of
6 2004 (42 U.S.C. 2000ee), as amended by subsection
7 (a), is further amended—

8 (A) in subsection (d), by adding at the end
9 the following:

10 “(5) WHISTLEBLOWER COMPLAINTS.—

11 “(A) SUBMISSION TO BOARD.—An em-
12 ployee of, or contractor or detailee to, an ele-
13 ment of the intelligence community may submit
14 to the Board a complaint or information that
15 such employee, contractor, or detailee believes
16 relates to a privacy or civil liberties concern.
17 The confidentiality provisions under section
18 2409(b)(3) of title 10, United States Code,
19 shall apply to a submission under this subpara-
20 graph. Any disclosure under this subparagraph
21 shall be protected against discrimination under
22 the procedures, burdens of proof, and remedies
23 set forth in section 2409 of such title.

24 “(B) AUTHORITY OF BOARD.—The Board
25 may take such action as the Board considers

1 appropriate with respect to investigating a com-
2 plaint or information submitted under subpara-
3 graph (A) or transmitting such complaint or in-
4 formation to any other Executive agency or the
5 congressional intelligence committees.

6 “(C) RELATIONSHIP TO EXISTING LAWS.—

7 The authority under subparagraph (A) of an
8 employee, contractor, or detailee to submit to
9 the Board a complaint or information shall be
10 in addition to any other authority under an-
11 other provision of law to submit a complaint or
12 information. Any action taken under any other
13 provision of law by the recipient of a complaint
14 or information shall not preclude the Board
15 from taking action relating to the same com-
16 plaint or information.

17 “(D) RELATIONSHIP TO ACTIONS TAKEN

18 UNDER OTHER LAWS.—Nothing in this para-
19 graph shall prevent—

20 “(i) any individual from submitting a
21 complaint or information to any authorized
22 recipient of the complaint or information;
23 or

24 “(ii) the recipient of a complaint or
25 information from taking independent ac-

1 tion on the complaint or information.”;

2 and

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

4 “(n) DEFINITIONS.—In this section, the terms ‘con-
5 gressional intelligence committees’ and ‘intelligence com-
6 munity’ have the meanings given such terms in section
7 3 of the National Security Act of 1947 (50 U.S.C.
8 3003).”.

9 (2) PROHIBITED PERSONNEL PRACTICES.—Sec-
10 tion 2302(b)(8)(B) of title 5, United States Code, is
11 amended, in the matter preceding clause (i), by
12 striking “or to the Inspector of an agency or another
13 employee designated by the head of the agency to re-
14 ceive such disclosures” and inserting “the Inspector
15 General of an agency, a supervisor in the employee’s
16 direct chain of command (up to and including the
17 head of the employing agency), the Privacy and Civil
18 Liberties Oversight Board, or an employee des-
19 ignated by any of the aforementioned individuals for
20 the purpose of receiving such disclosures”.

21 (c) PRIVACY AND CIVIL LIBERTIES OVERSIGHT
22 BOARD SUBPOENA POWER.—Section 1061(g) of the Intel-
23 ligence Reform and Terrorism Prevention Act of 2004 (42
24 U.S.C. 2000ee(g)) is amended—

1 (1) in paragraph (1)(D), by striking “submit a
2 written request to the Attorney General of the
3 United States that the Attorney General”;

4 (2) by striking paragraph (2); and

5 (3) by redesignating paragraphs (3) and (4) as
6 paragraphs (2) and (3), respectively.

7 (d) APPOINTMENT OF STAFF OF THE PRIVACY AND
8 CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061(j)
9 of the Intelligence Reform and Terrorism Prevention Act
10 of 2004 (42 U.S.C. 2000ee(j)) is amended—

11 (1) by redesignating paragraphs (2) and (3) as
12 paragraphs (3) and (4), respectively; and

13 (2) by inserting after paragraph (1) the fol-
14 lowing:

15 “(2) APPOINTMENT IN ABSENCE OF CHAIR-
16 MAN.—If the position of chairman of the Board is
17 vacant, during the period of the vacancy the Board,
18 at the direction of the majority of the members of
19 the Board, may exercise the authority of the chair-
20 man under paragraph (1).”.

21 (e) TENURE AND COMPENSATION OF PRIVACY AND
22 CIVIL LIBERTIES OVERSIGHT BOARD MEMBERS AND
23 STAFF.—

24 (1) IN GENERAL.—Section 1061 of the Intel-
25 ligence Reform and Terrorism Prevention Act of

1 2004 (42 U.S.C. 2000ee), as amended by sub-
2 sections (a) and (b), is further amended—

3 (A) in subsection (h)—

4 (i) in paragraph (1), by inserting
5 “full-time” after “4 additional”; and

6 (ii) in paragraph (4)(B), by striking
7 “, except that” and all that follows
8 through the end and inserting a period;

9 (B) in subsection (i)(1)—

10 (i) in subparagraph (A), by striking
11 “level III of the Executive Schedule under
12 section 5314” and inserting “level II of the
13 Executive Schedule under section 5313”;
14 and

15 (ii) in subparagraph (B), by striking
16 “level IV of the Executive Schedule” and
17 all that follows through the end and insert-
18 ing “level III of the Executive Schedule
19 under section 5314 of title 5, United
20 States Code.”; and

21 (C) in subsection (j)(1), by striking “level
22 V of the Executive Schedule under section
23 5316” and inserting “level IV of the Executive
24 Schedule under section 5315”.

25 (2) EFFECTIVE DATE; APPLICABILITY.—

1 (A) IN GENERAL.—The amendments made
2 by paragraph (1)—

3 (i) shall take effect on the date of the
4 enactment of this Act; and

5 (ii) except as provided in paragraph
6 (2), shall apply to any appointment to a
7 position as a member of the Privacy and
8 Civil Liberties Oversight Board made on or
9 after the date of the enactment of this Act.

10 (B) EXCEPTIONS.—

11 (i) COMPENSATION CHANGES.—The
12 amendments made by subparagraphs
13 (B)(i) and (C) of paragraph (1) shall take
14 effect on the first day of the first pay pe-
15 riod beginning after the date of the enact-
16 ment of this Act.

17 (ii) ELECTION TO SERVE FULL TIME
18 BY INCUMBENTS.—

19 (I) IN GENERAL.—An individual
20 serving as a member of the Privacy
21 and Civil Liberties Oversight Board
22 on the date of the enactment of this
23 Act, including a member continuing to
24 serve as a member under section
25 1061(h)(4)(B) of the Intelligence Re-

1 form and Terrorism Prevention Act of
2 2004 (42 U.S.C. 2000ee(h)(4)(B)),
3 (referred to in this clause as a “cur-
4 rent member”) may make an election
5 to—

6 (aa) serve as a member of
7 the Privacy and Civil Liberties
8 Oversight Board on a full-time
9 basis and in accordance with sec-
10 tion 1061 of the Intelligence Re-
11 form and Terrorism Prevention
12 Act of 2004 (42 U.S.C. 2000ee),
13 as amended by this section; or

14 (bb) serve as a member of
15 the Privacy and Civil Liberties
16 Oversight Board on a part-time
17 basis in accordance with such
18 section 1061, as in effect on the
19 day before the date of the enact-
20 ment of this Act, including the
21 limitation on service after the ex-
22 piration of the term of the mem-
23 ber under subsection (h)(4)(B) of
24 such section, as in effect on the

1 day before the date of the enact-
2 ment of this Act.

3 (II) ELECTION TO SERVE FULL
4 TIME.—A current member making an
5 election under subclause (I)(aa) shall
6 begin serving as a member of the Pri-
7 vacy and Civil Liberties Oversight
8 Board on a full-time basis on the first
9 day of the first pay period beginning
10 not less than 60 days after the date
11 on which the current member makes
12 such election.

13 (f) PROVISION OF INFORMATION ABOUT GOVERN-
14 MENT ACTIVITIES UNDER THE FOREIGN INTELLIGENCE
15 SURVEILLANCE ACT OF 1978 TO THE PRIVACY AND CIVIL
16 LIBERTIES OVERSIGHT BOARD.—The Attorney General
17 shall fully inform the Privacy and Civil Liberties Oversight
18 Board about any activities carried out by the Government
19 under the Foreign Intelligence Surveillance Act of 1978
20 (50 U.S.C. 1801 et seq.), including by providing to the
21 Board—

22 (1) copies of each detailed report submitted to
23 a committee of Congress under such Act; and

24 (2) copies of each decision, order, and opinion
25 of the Foreign Intelligence Surveillance Court or the

1 Foreign Intelligence Surveillance Court of Review re-
 2 quired to be included in the report under section
 3 601(a) of such Act (50 U.S.C. 1871(a)).

4 **SEC. 8. IMPROVED ROLE IN OVERSIGHT OF ELECTRONIC**
 5 **SURVEILLANCE BY AMICI CURIAE AP-**
 6 **POINTED BY COURTS UNDER FOREIGN IN-**
 7 **TELLIGENCE SURVEILLANCE ACT OF 1978.**

8 (a) **ROLE OF AMICI CURIAE GENERALLY.—**

9 (1) **IN GENERAL.—**Section 103(i)(1) of the For-
 10 eign Intelligence Surveillance Act of 1978 (50
 11 U.S.C. 1803(i)(1)) is amended by adding at the end
 12 the following: “Any amicus curiae designated pursu-
 13 ant to this paragraph may raise any issue with the
 14 Court at any time.”.

15 (2) **REFERRAL OF CASES FOR REVIEW.—**Sec-
 16 tion 103(i) of such Act is amended—

17 (A) by redesignating paragraphs (5)
 18 through (10) as paragraphs (6) through (11),
 19 respectively; and

20 (B) by inserting after paragraph (4) the
 21 following:

22 “(5) **REFERRAL FOR REVIEW.—**

23 “(A) **REFERRAL TO FOREIGN INTEL-**
 24 **LIGENCE SURVEILLANCE COURT EN BANC.—**If
 25 the court established under subsection (a) ap-

1 points an amicus curiae under paragraph
2 (2)(A) to assist the Court in the consideration
3 of any matter presented to the Court under this
4 Act and the Court makes a decision with re-
5 spect to such matter, the Court, in response to
6 an application by the amicus curiae or any
7 other individual designated under paragraph
8 (1), may refer the decision to the Court en banc
9 for review as the Court considers appropriate.

10 “(B) REFERRAL TO FOREIGN INTEL-
11 LIGENCE SURVEILLANCE COURT OF REVIEW.—
12 If the court established under subsection (a)
13 appoints an amicus curiae under paragraph
14 (2)(A) to assist the Court in the consideration
15 of any matter presented to the Court under this
16 Act and the Court makes a decision with re-
17 spect to such matter, the Court, in response to
18 an application by the amicus curiae or any
19 other individual designated under paragraph (1)
20 may refer the decision to the court established
21 under subsection (b) for review as the Court
22 considers appropriate.

23 “(C) REFERRAL TO SUPREME COURT.—If
24 the Court of Review appoints an amicus curiae
25 under paragraph (2) to assist the Court of Re-

1 view in the review of any matter presented to
2 the Court of Review under this Act or a ques-
3 tion of law that may affect resolution of a mat-
4 ter in controversy and the Court of Review
5 makes a decision with respect to such matter or
6 question of law, the Court of Review, in re-
7 sponse to an application by the amicus curiae
8 or any other individual designated under para-
9 graph (1) may refer the decision to the Su-
10 preme Court for review as the Court of Review
11 considers appropriate.

12 “(D) ANNUAL REPORT.—Not later than 60
13 days after the end of each calendar year, the
14 Court and the Court of Review shall each pub-
15 lish, on their respective Internet websites, a re-
16 port listing—

17 “(i) the number of applications for re-
18 ferral received by the Court or the Court
19 of Review, as applicable, during the most
20 recently concluded calendar year; and

21 “(ii) the number of such applications
22 for referral that were granted by the Court
23 or the Court of Review, as applicable, dur-
24 ing such calendar year.”.

1 (3) ASSISTANCE.—Section 103(i)(6) of such
2 Act, as redesignated, is further amended to read as
3 follows:

4 “(6) ASSISTANCE.—Any individual designated
5 pursuant to paragraph (1) may raise a legal or tech-
6 nical issue or any other issue with the Court or the
7 Court of Review at any time. If an amicus curiae is
8 appointed under paragraph (2)(A)—

9 “(A) the court shall notify all other amicus
10 curiae designated under paragraph (1) of such
11 appointment;

12 “(B) the appointed amicus curiae may re-
13 quest, either directly or through the court, the
14 assistance of the other amici curiae designated
15 under paragraph (1); and

16 “(C) all amici curiae designated under
17 paragraph (1) may provide input to the court
18 whether or not such input was formally re-
19 quested by the court or the appointed amicus
20 curiae.”.

21 (4) ACCESS TO INFORMATION.—Section
22 103(i)(7) of such Act, as redesignated, is further
23 amended—

24 (A) in subparagraph (A)—

25 (i) in clause (i)—

- 1 (I) by striking “that the court”
2 and inserting the following: “that—
3 “(I) the court”; and
4 (II) by striking “and” at the end
5 and inserting the following: “or
6 “(II) are cited by the Govern-
7 ment in an application or case with
8 respect to which an amicus curiae is
9 assisting a court under this sub-
10 section;”;
11 (ii) by redesignating clause (ii) as
12 clause (iii); and
13 (iii) by inserting after clause (i) the
14 following:
15 “(ii) shall have access to an
16 unredacted copy of each decision made by
17 a court established under subsection (a) or
18 (b) in which the court decides a question
19 of law, notwithstanding whether the deci-
20 sion is classified; and”;
21 (B) in subparagraph (B), by striking
22 “may” and inserting “shall”; and
23 (C) in subparagraph (C)—

1 (i) in the subparagraph heading, by
2 striking “CLASSIFIED INFORMATION” and
3 inserting “ACCESS TO INFORMATION”; and

4 (ii) by striking “court may have ac-
5 cess” and inserting the following: “court—

6 “(i) shall have access to unredacted
7 copies of each opinion, order, transcript,
8 pleading, or other document of the Court
9 and the Court of Review; and

10 “(ii) may have access”.

11 (5) PUBLIC NOTICE AND RECEIPT OF BRIEFS
12 FROM THIRD PARTIES.—Section 103(i) of such Act,
13 as amended by this subsection, is further amended
14 by adding at the end the following:

15 “(12) PUBLIC NOTICE AND RECEIPT OF BRIEFS
16 FROM THIRD PARTIES.—Whenever a court estab-
17 lished under subsection (a) or (b) considers a novel
18 a question of law that can be considered without dis-
19 closing classified information, sources, or methods,
20 the court shall, to the greatest extent practicable,
21 consider such question in an open manner—

22 “(A) by publishing on its Internet website
23 each question of law that the court is consid-
24 ering; and

1 “(B) by accepting briefs from third parties
2 relating to the question under consideration by
3 the court.”.

4 (b) PARTICIPATION OF AMICI CURIAE IN OVERSIGHT
5 OF AUTHORIZATIONS FOR TARGETING OF CERTAIN PER-
6 SONS OUTSIDE THE UNITED STATES OTHER THAN
7 UNITED STATES PERSONS.—

8 (1) IN GENERAL.—Section 702(i)(2) of such
9 Act (50 U.S.C. 1881a(i)(2)) is amended—

10 (A) in subparagraph (B), by redesignating
11 clauses (i) and (ii) as subclauses (I) and (II),
12 respectively, and adjusting the indentation of
13 the margin of such subclauses, as so redesign-
14 ated, two ems to the right;

15 (B) by redesignating subparagraphs (A)
16 through (C) as clauses (i) through (iii), respec-
17 tively, and adjusting the indentation of the
18 margin of such clauses, as so redesignated, two
19 ems to the right;

20 (C) by inserting before clause (i), as redesi-
21 gnated by subparagraph (B), the following:

22 “(A) IN GENERAL.—”; and

23 (D) by adding at the end the following:

24 “(B) PARTICIPATION BY AMICI CURIAE.—

25 In reviewing a certification under subparagraph

1 (A)(i), the Court shall randomly select an ami-
2 cus curiae designated under section 103(i) to
3 assist with such review.”.

4 (2) SCHEDULE.—Section 702(i)(5)(A) of such
5 Act is amended by striking “at least 30 days prior
6 to the expiration of such authorization” and insert-
7 ing “such number of days before the expiration of
8 such authorization as the Court considers necessary
9 to comply with the requirements of paragraph
10 (2)(B) or 30 days, whichever is greater”.

11 (c) PUBLIC NOTICE OF QUESTIONS OF LAW CER-
12 TIFIED FOR REVIEW.—Section 103(j) of such Act (50
13 U.S.C. 1803(j)) is amended—

14 (1) by striking “Following” and inserting the
15 following:

16 “(1) IN GENERAL.—Following”; and

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

18 “(2) PUBLIC NOTICE.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), whenever a court established
21 under subsection (a) certifies a question of law
22 for review under paragraph (1) of this sub-
23 section, the court shall publish on its Internet
24 website—

1 “(i) a notice of the question of law to
2 be reviewed; and

3 “(ii) briefs submitted by the parties,
4 which may be redacted at the discretion of
5 the court to protect sources, methods, and
6 other classified information.

7 “(B) PROTECTION OF CLASSIFIED INFOR-
8 MATION, SOURCES, AND METHODS.—Subpara-
9 graph (A) shall apply to the greatest extent
10 practicable, consistent with otherwise applicable
11 law on the protection of classified information,
12 sources, and methods.”.

13 **SEC. 9. REFORMS TO THE FOREIGN INTELLIGENCE SUR-**
14 **VEILLANCE COURT.**

15 (a) FISA COURT JUDGES.—

16 (1) NUMBER AND DESIGNATION OF JUDGES.—
17 Section 103(a)(1) of the Foreign Intelligence Sur-
18 veillance Act of 1978 (50 U.S.C. 1803(a)(1)) is
19 amended to read as follows:

20 “(1)(A) There is a court which shall have jurisdiction
21 to hear applications for and to grant orders approving
22 electronic surveillance anywhere within the United States
23 under the procedures set forth in this Act.

24 “(B)(i) The court established under subparagraph
25 (A) shall consist of 13 judges, one of whom shall be des-

1 ignated from each judicial circuit (including the United
2 States Court of Appeals for the District of Columbia and
3 the United States Court of Appeals for the Federal Cir-
4 cuit).

5 “(ii) The Chief Justice of the United States shall—

6 “(I) designate each judge of the court estab-
7 lished under subparagraph (A) from the nominations
8 made under subparagraph (C); and

9 “(II) make the name of each judge of such
10 court available to the public.

11 “(C)(i) When a vacancy occurs in the position of a
12 judge of the court established under subparagraph (A)
13 from a judicial circuit, the chief judge of the circuit shall
14 propose a district judge for a judicial district within the
15 judicial circuit to be designated for that position.

16 “(ii) If the Chief Justice does not designate a district
17 judge proposed under clause (i), the chief judge shall pro-
18 pose 2 other district judges for a judicial district within
19 the judicial circuit to be designated for that position and
20 the Chief Justice shall designate 1 such district judge to
21 that position.

22 “(D) No judge of the court established under sub-
23 paragraph (A) (except when sitting en banc under para-
24 graph (2)) shall hear the same application for electronic

1 surveillance under this Act which has been denied pre-
2 viously by another judge of such court.

3 “(E) If any judge of the court established under sub-
4 paragraph (A) denies an application for an order author-
5 izing electronic surveillance under this Act, such judge
6 shall provide immediately for the record a written state-
7 ment of each reason for the judge’s decision and, on mo-
8 tion of the United States, the record shall be transmitted,
9 under seal, to the court of review established in subsection
10 (b).”.

11 (2) TENURE.—Section 103(d) of such Act is
12 amended by striking “redesignation,” and all that
13 follows through the end and inserting “redesigna-
14 tion.”.

15 (3) IMPLEMENTATION.—

16 (A) INCUMBENTS.—A district judge des-
17 igned to serve on the court established under
18 subsection (a) of such section before the date of
19 enactment of this Act may continue to serve in
20 that position until the end of the term of the
21 district judge under subsection (d) of such sec-
22 tion, as in effect on the day before the date of
23 the enactment of this Act.

24 (B) INITIAL APPOINTMENT AND TERM.—

25 Notwithstanding any provision of such section,

1 as amended by paragraphs (1) and (2), and not
2 later than 180 days after the date of enactment
3 of this Act, the Chief Justice of the United
4 States shall—

5 (i) designate a district court judge
6 who is serving in a judicial district within
7 the District of Columbia circuit and pro-
8 posed by the chief judge of such circuit to
9 be a judge of the court established under
10 section 103(a) of the Foreign Intelligence
11 Surveillance Act of 1978 (50 U.S.C.
12 1803(a)) for an initial term of 7 years; and

13 (ii) designate a district court judge
14 who is serving in a judicial district within
15 the Federal circuit and proposed by the
16 chief judge of such circuit to be a judge of
17 such court for an initial term of 4 years.

18 (b) COURT OF REVIEW.—Section 103(b) of such Act
19 is amended—

20 (1) by striking “The Chief Justice” and insert-
21 ing “(1) Subject to paragraph (2), the Chief Jus-
22 tice”; and

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

24 “(2) The Chief Justice may designate a district court
25 judge or circuit court judge to a position on the court es-

1 tablished under paragraph (1) only if at least 5 associate
2 justices approve the designation of such individual.”.

3 **SEC. 10. STUDY AND REPORT ON DIVERSITY AND REP-**
4 **RESENTATION ON THE FISA COURT AND THE**
5 **FISA COURT OF REVIEW.**

6 (a) STUDY.—The Committee on Intercircuit Assign-
7 ments of the Judicial Conference of the United States
8 shall conduct a study on how to ensure judges are ap-
9 pointed to the court established under subsection (a) of
10 section 103 of the Foreign Intelligence Surveillance Act
11 of 1978 (50 U.S.C. 1803) and the court established under
12 subsection (b) of such section in a manner that ensures
13 such courts are diverse and representative.

14 (b) REPORT.—Not later than 1 year after the date
15 of the enactment of this Act, the Committee on Intercir-
16 cuit Assignments shall submit to Congress a report on the
17 study carried out under subsection (a).

18 **SEC. 11. GROUNDS FOR DETERMINING INJURY IN FACT IN**
19 **CIVIL ACTION RELATING TO SURVEILLANCE**
20 **UNDER CERTAIN PROVISIONS OF FOREIGN**
21 **INTELLIGENCE SURVEILLANCE ACT OF 1978.**

22 Section 702 of the Foreign Intelligence Surveillance
23 Act of 1978 (50 U.S.C. 1881a), as amended by sections
24 2, 3, 4, 5, and 8(b), is further amended by adding at the
25 end the following:

1 “(m) CHALLENGES TO GOVERNMENT SURVEIL-
2 LANCE.—

3 “(1) INJURY IN FACT.—In any claim in a civil
4 action brought in a court of the United States relat-
5 ing to surveillance conducted under this section, the
6 person asserting the claim has suffered an injury in
7 fact if the person—

8 “(A) has a reasonable basis to believe that
9 the person’s communications will be acquired
10 under this section; and

11 “(B) has taken objectively reasonable steps
12 to avoid surveillance under this section.

13 “(2) REASONABLE BASIS.—A person shall be
14 presumed to have demonstrated a reasonable basis
15 to believe that the communications of the person will
16 be acquired under this section if the profession of
17 the person requires the person regularly to commu-
18 nicate foreign intelligence information with persons
19 who—

20 “(A) are not United States persons; and

21 “(B) are located outside the United States.

22 “(3) OBJECTIVE STEPS.—A person shall be pre-
23 sumed to have taken objectively reasonable steps to
24 avoid surveillance under this section if the person
25 demonstrates that the steps were taken in reason-

1 able response to rules of professional conduct or
2 analogous professional rules.”.

3 **SEC. 12. CLARIFICATION OF APPLICABILITY OF REQUIRE-**
4 **MENT TO DECLASSIFY SIGNIFICANT DECI-**
5 **SIONS OF FOREIGN INTELLIGENCE SURVEIL-**
6 **LANCE COURT AND FOREIGN INTELLIGENCE**
7 **SURVEILLANCE COURT OF REVIEW.**

8 Section 602 of the Foreign Intelligence Surveillance
9 Act of 1978 (50 U.S.C. 1872) shall apply with respect
10 to decisions, orders, and opinions described in subsection
11 (a) of such section that were issued on, before, or after
12 the date of the enactment of the Uniting and Strength-
13 ening America by Fulfilling Rights and Ensuring Effective
14 Discipline Over Monitoring Act of 2015 (Public Law 114–
15 23).

16 **SEC. 13. CLARIFICATION REGARDING TREATMENT OF IN-**
17 **FORMATION ACQUIRED UNDER FOREIGN IN-**
18 **TELLIGENCE SURVEILLANCE ACT OF 1978.**

19 (a) DERIVED DEFINED.—

20 (1) IN GENERAL.—Section 101 of the Foreign
21 Intelligence Surveillance Act of 1978 (50 U.S.C.
22 1801) is amended by adding at the end the fol-
23 lowing:

24 “(q) For the purposes of notification provisions of
25 this Act, information or evidence is ‘derived’ from an elec-

1 tronic surveillance, physical search, use of a pen register
2 or trap and trace device, production of tangible things,
3 or acquisition under this Act when the Government would
4 not have originally possessed the information or evidence
5 but for that electronic surveillance, physical search, use
6 of a pen register or trap and trace device, production of
7 tangible things, or acquisition, and regardless of any claim
8 that the information or evidence is attenuated from the
9 surveillance or search, would inevitably have been discov-
10 ered, or was subsequently reobtained through other
11 means.”.

12 (2) POLICIES AND GUIDANCE.—

13 (A) IN GENERAL.—Not later than 90 days
14 after the date of the enactment of this Act, the
15 Attorney General and the Director of National
16 Intelligence shall publish the following:

17 (i) Policies concerning the application
18 of subsection (q) of section 101 of such
19 Act, as added by paragraph (1).

20 (ii) Guidance for all members of the
21 intelligence community (as defined in sec-
22 tion 3 of the National Security Act of
23 1947 (50 U.S.C. 3003)) and all Federal
24 agencies with law enforcement responsibil-

1 ities concerning the application of such
2 subsection.

3 (B) MODIFICATIONS.—Whenever the At-
4 torney General and the Director modify a policy
5 or guidance published under subparagraph (A),
6 the Attorney General and the Director shall
7 publish such modifications.

8 (b) USE OF INFORMATION ACQUIRED UNDER TITLE
9 VII.—Section 706 of such Act (50 U.S.C. 1881e) is
10 amended—

11 (1) in subsection (a), by striking “, except for
12 the purposes of subsection (j) of such section”; and

13 (2) by amending subsection (b) to read as fol-
14 lows:

15 “(b) INFORMATION ACQUIRED UNDER SECTIONS
16 703–705.—Information acquired from an acquisition con-
17 ducted under section 703, 704, or 705 shall be deemed
18 to be information acquired from an electronic surveillance
19 pursuant to title I for the purposes of section 106.”.

20 **SEC. 14. LIMITATION ON TECHNICAL ASSISTANCE FROM**
21 **ELECTRONIC COMMUNICATION SERVICE**
22 **PROVIDERS UNDER THE FOREIGN INTEL-**
23 **LIGENCE SURVEILLANCE ACT OF 1978.**

24 Section 702(h)(1) of the Foreign Intelligence Surveil-
25 lance Act of 1978 (50 U.S.C. 1881a(h)(1)) is amended—

1 (1) by redesignating subparagraphs (A) and
2 (B) as clauses (i) and (ii), respectively, and moving
3 such clauses 2 ems to the right;

4 (2) by striking “With respect to” and inserting
5 the following:

6 “(A) IN GENERAL.—Subject to subpara-
7 graph (B), in carrying out”; and

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

9 “(B) LIMITATIONS.—The Attorney Gen-
10 eral or the Director of National Intelligence
11 may not request assistance from an electronic
12 communication service provider under subpara-
13 graph (A) without demonstrating, to the satis-
14 faction of the Court, that the assistance
15 sought—

16 “(i) is necessary;

17 “(ii) is narrowly tailored to the sur-
18 veillance at issue; and

19 “(iii) would not pose an undue burden
20 on the electronic communication service
21 provider or its customers who are not an
22 intended target of the surveillance.

23 “(C) COMPLIANCE.—An electronic commu-
24 nication service provider is not obligated to

1 comply with a directive to provide assistance
2 under this paragraph unless—

3 “(i) such assistance is a manner or
4 method that has been explicitly approved
5 by the Court; and

6 “(ii) the Court issues an order, which
7 has been delivered to the provider, explic-
8 itly describing the assistance to be fur-
9 nished by the provider that has been ap-
10 proved by the Court.”.

11 **SEC. 15. MODIFICATION OF AUTHORITIES FOR PUBLIC RE-**
12 **PORTING BY PERSONS SUBJECT TO NON-**
13 **DISCLOSURE REQUIREMENT ACCOMPANYING**
14 **ORDER UNDER FOREIGN INTELLIGENCE SUR-**
15 **VEILLANCE ACT OF 1978.**

16 (a) MODIFICATION OF AGGREGATION BANDING.—
17 Subsection (a) of section 604 of the Foreign Intelligence
18 Surveillance Act of 1978 (50 U.S.C. 1874) is amended—

19 (1) by striking paragraphs (1) through (3) and
20 inserting the following:

21 “(1) A semiannual report that aggregates the
22 number of orders, directives, or national security let-
23 ters with which the person was required to comply
24 into separate categories of—

1 “(A) the number of national security let-
2 ters received, reported—

3 “(i) for the first 1000 national secu-
4 rity letters received, in bands of 200 start-
5 ing with 1–200; and

6 “(ii) for more than 1000 national se-
7 curity letters received, the precise number
8 of national security letters received;

9 “(B) the number of customer selectors tar-
10 geted by national security letters, reported—

11 “(i) for the first 1000 customer selec-
12 tors targeted, in bands of 200 starting
13 with 1–200; and

14 “(ii) for more than 1000 customer se-
15 lectors targeted, the precise number of cus-
16 tomer selectors targeted;

17 “(C) the number of orders or directives re-
18 ceived, combined, under this Act for contents—

19 “(i) reported—

20 “(I) for the first 1000 orders and
21 directives received, in bands of 200
22 starting with 1–200; and

23 “(II) for more than 1000 orders
24 and directives received, the precise
25 number of orders received; and

1 “(ii) disaggregated by whether the
2 order or directive was issued under section
3 105, 402, 501, 702, 703, or 704;

4 “(D) the number of customer selectors tar-
5 geted under orders or directives received, com-
6 bined, under this Act for contents—

7 “(i) reported—

8 “(I) for the first 1000 customer
9 selectors targeted, in bands of 200
10 starting with 1–200; and

11 “(II) for more than 1000 cus-
12 tomer selectors targeted, the precise
13 number of customer selectors tar-
14 geted; and

15 “(ii) disaggregated by whether the
16 order or directive was issued under section
17 105, 402, 501, 702, 703, or 704;

18 “(E) the number of orders or directives re-
19 ceived under this Act for noncontents—

20 “(i) reported—

21 “(I) for the first 1000 orders or
22 directives received, in bands of 200
23 starting with 1–200; and

1 “(II) for more than 1000 orders
2 or directives received, the precise
3 number of orders received; and

4 “(ii) disaggregated by whether the
5 order or directive was issued under section
6 105, 402, 501, 702, 703, or 704; and

7 “(F) the number of customer selectors tar-
8 geted under orders or directives under this Act
9 for noncontents—

10 “(i) reported—

11 “(I) for the first 1000 customer
12 selectors targeted, in bands of 200
13 starting with 1–200; and

14 “(II) for more than 1000 cus-
15 tomer selectors targeted, the precise
16 number of customer selectors tar-
17 geted; and

18 “(ii) disaggregated by whether the
19 order or directive was issued under section
20 105, 402, 501, 702, 703, or 704.”; and

21 (2) by redesignating paragraph (4) as para-
22 graph (2).

23 (b) ADDITIONAL DISCLOSURES.—Such section is
24 amended—

1 (1) by redesignating subsections (b) through (d)
2 as subsections (c) through (e), respectively; and

3 (2) by inserting after subsection (a) the fol-
4 lowing:

5 “(b) **ADDITIONAL DISCLOSURES.**—A person who
6 publicly reports information under subsection (a) may also
7 publicly report the following information, relating to the
8 previous 180 days, using a semiannual report that indi-
9 cates whether the person was or was not required to com-
10 ply with an order, directive, or national security letter
11 issued under each of sections 105, 402, 501, 702, 703,
12 and 704 and the provisions listed in section 603(e)(3).”.

13 **SEC. 16. ANNUAL PUBLICATION OF STATISTICS ON NUM-**
14 **BER OF PERSONS TARGETED OUTSIDE THE**
15 **UNITED STATES UNDER CERTAIN FOREIGN**
16 **INTELLIGENCE SURVEILLANCE ACT OF 1978**
17 **AUTHORITY.**

18 Not less frequently than once each year, the Director
19 of National Intelligence shall publish the following:

20 (1) A description of the subject matter of each
21 of the certifications provided under subsection (g) of
22 section 702 of the Foreign Intelligence Surveillance
23 Act of 1978 (50 U.S.C. 1881a) in the last calendar
24 year.

1 (2) Statistics revealing the number of persons
2 targeted in the last calendar year under subsection
3 (a) of such section, disaggregated by certification
4 under which the person was targeted.

5 **SEC. 17. REPEAL OF NONAPPLICABILITY TO FEDERAL BU-**
6 **REAU OF INVESTIGATION OF CERTAIN RE-**
7 **PORTING REQUIREMENTS UNDER FOREIGN**
8 **INTELLIGENCE SURVEILLANCE ACT OF 1978.**

9 Section 603(d)(2) of the Foreign Intelligence Surveil-
10 lance Act of 1978 (50 U.S.C. 1873(d)(2)) is amended by
11 striking “(A) FEDERAL BUREAU” and all that follows
12 through “Paragraph (3)(B) of” and inserting “Paragraph
13 (3)(B)”.

14 **SEC. 18. PUBLICATION OF ESTIMATES REGARDING COMMU-**
15 **NICATIONS COLLECTED UNDER CERTAIN**
16 **PROVISION OF FOREIGN INTELLIGENCE SUR-**
17 **VEILLANCE ACT OF 1978.**

18 (a) IN GENERAL.—Except as provided in subsection
19 (b), not later than 90 days after the date of the enactment
20 of this Act, the Director of National Intelligence shall pub-
21 lish an estimate of—

22 (1) the number of United States persons whose
23 communications are collected under section 702 of
24 the Foreign Intelligence Surveillance Act of 1978
25 (50 U.S.C. 1881a); or

1 (2) the number of communications collected
2 under such section to which a party is a person in-
3 side the United States.

4 (b) IN CASE OF TECHNICAL IMPOSSIBILITY.—If the
5 Director determines that publishing an estimate pursuant
6 to subsection (a) is not technically possible—

7 (1) subsection (a) shall not apply; and

8 (2) the Director shall publish an assessment in
9 unclassified form explaining such determination, but
10 may submit a classified annex to the appropriate
11 committees of Congress as necessary.

12 (c) APPROPRIATE COMMITTEES OF CONGRESS DE-
13 FINED.—In this section, the term “appropriate commit-
14 tees of Congress” means—

15 (1) the congressional intelligence committees
16 (as defined in section 3 of the National Security Act
17 of 1947 (50 U.S.C. 3003));

18 (2) the Committee on the Judiciary of the Sen-
19 ate; and

20 (3) the Committee on the Judiciary of the
21 House of Representatives.

1 **SEC. 19. FOUR-YEAR EXTENSION OF FISA AMENDMENTS**

2 **ACT OF 2008.**

3 (a) **EXTENSION.**—Section 403(b) of the FISA
4 Amendments Act of 2008 (Public Law 110–261) is
5 amended—

6 (1) in paragraph (1) (50 U.S.C. 1881–1881g
7 note), by striking “December 31, 2017” and insert-
8 ing “September 30, 2021”; and

9 (2) in paragraph (2) (18 U.S.C. 2511 note), in
10 the material preceding subparagraph (A), by striking
11 “December 31, 2017” and inserting “September 30,
12 2021”.

13 (b) **CONFORMING AMENDMENT.**—The heading of sec-
14 tion 404(b)(1) of the FISA Amendments Act of 2008
15 (Public Law 110–261; 50 U.S.C. 1801 note) is amended
16 by striking “DECEMBER 31, 2017” and inserting “SEP-
17 TEMBER 30, 2021”.

○