



1 “that is stored, held, or maintained by that  
2 service”; and

3 (C) in paragraph (3)—

4 (i) by striking “divulge” and inserting  
5 “disclose”; and

6 (ii) by striking “a provider of” and in-  
7 serting “a person or entity providing”;

8 (2) in subsection (b)—

9 (A) in the matter preceding paragraph (1),  
10 by inserting “wire or electronic” before “com-  
11 munication”;

12 (B) by amending paragraph (1) to read as  
13 follows:

14 “(1) to an originator, addressee, or intended re-  
15 cipient of such communication, to the subscriber or  
16 customer on whose behalf the provider stores, holds,  
17 or maintains such communication, or to an agent of  
18 such addressee, intended recipient, subscriber, or  
19 customer;”; and

20 (C) by amending paragraph (3) to read as  
21 follows:

22 “(3) with the lawful consent of the originator,  
23 addressee, or intended recipient of such communica-  
24 tion, or of the subscriber or customer on whose be-

1 half the provider stores, holds, or maintains such  
2 communication;”;

3 (3) in subsection (c) by inserting “wire or elec-  
4 tronic” before “communications”;

5 (4) in each of subsections (b) and (c), by strik-  
6 ing “divulge” and inserting “disclose”; and

7 (5) in subsection (c), by amending paragraph  
8 (2) to read as follows:

9 “(2) with the lawful consent of the subscriber  
10 or customer;”.

11 **SEC. 1087. AMENDMENTS TO REQUIRED DISCLOSURE SEC-**  
12 **TION.**

13 Section 2703 of title 18, United States Code, is  
14 amended—

15 (1) by striking subsections (a) through (c) and  
16 inserting the following:

17 “(a) CONTENTS OF WIRE OR ELECTRONIC COMMU-  
18 NICATIONS IN ELECTRONIC STORAGE.—Except as pro-  
19 vided in subsections (i) and (j), a governmental entity may  
20 require the disclosure by a provider of electronic commu-  
21 nication service of the contents of a wire or electronic com-  
22 munication that is in electronic storage with or otherwise  
23 stored, held, or maintained by that service only if the gov-  
24 ernmental entity obtains a warrant issued using the proce-  
25 dures described in the Federal Rules of Criminal Proce-

1 dure (or, in the case of a State court, issued using State  
2 warrant procedures) that—

3 “(1) is issued by a court of competent jurisdic-  
4 tion; and

5 “(2) may indicate the date by which the pro-  
6 vider must make the disclosure to the governmental  
7 entity.

8 In the absence of a date on the warrant indicating the  
9 date by which the provider must make disclosure to the  
10 governmental entity, the provider shall promptly respond  
11 to the warrant.

12 “(b) CONTENTS OF WIRE OR ELECTRONIC COMMU-  
13 NICATIONS IN A REMOTE COMPUTING SERVICE.—

14 “(1) IN GENERAL.—Except as provided in sub-  
15 sections (i) and (j), a governmental entity may re-  
16 quire the disclosure by a provider of remote com-  
17 puting service of the contents of a wire or electronic  
18 communication that is stored, held, or maintained by  
19 that service only if the governmental entity obtains  
20 a warrant issued using the procedures described in  
21 the Federal Rules of Criminal Procedure (or, in the  
22 case of a State court, issued using State warrant  
23 procedures) that—

24 “(A) is issued by a court of competent ju-  
25 risdiction; and

1           “(B) may indicate the date by which the  
2           provider must make the disclosure to the gov-  
3           ernmental entity.

4           In the absence of a date on the warrant indicating  
5           the date by which the provider must make disclosure  
6           to the governmental entity, the provider shall  
7           promptly respond to the warrant.

8           “(2) APPLICABILITY.—Paragraph (1) is appli-  
9           cable with respect to any wire or electronic commu-  
10          nication that is stored, held, or maintained by the  
11          provider—

12           “(A) on behalf of, and received by means  
13           of electronic transmission from (or created by  
14           means of computer processing of communica-  
15           tion received by means of electronic trans-  
16           mission from), a subscriber or customer of such  
17           remote computing service; and

18           “(B) solely for the purpose of providing  
19           storage or computer processing services to such  
20           subscriber or customer, if the provider is not  
21           authorized to access the contents of any such  
22           communications for purposes of providing any  
23           services other than storage or computer proc-  
24           essing.

1           “(c) RECORDS CONCERNING ELECTRONIC COMMU-  
2   NICATION SERVICE OR REMOTE COMPUTING SERVICE.—

3           “(1) IN GENERAL.—Except as provided in sub-  
4   sections (i) and (j), a governmental entity may re-  
5   quire the disclosure by a provider of electronic com-  
6   munication service or remote computing service of a  
7   record or other information pertaining to a sub-  
8   scriber to or customer of such service (not including  
9   the contents of wire or electronic communications),  
10   only—

11           “(A) if a governmental entity obtains a  
12   warrant issued using the procedures described  
13   in the Federal Rules of Criminal Procedure (or,  
14   in the case of a State court, issued using State  
15   warrant procedures) that—

16           “(i) is issued by a court of competent  
17   jurisdiction directing the disclosure; and

18           “(ii) may indicate the date by which  
19   the provider must make the disclosure to  
20   the governmental entity;

21           “(B) if a governmental entity obtains a  
22   court order directing the disclosure under sub-  
23   section (d);

24           “(C) with the lawful consent of the sub-  
25   scriber or customer; or

1                   “(D) as otherwise authorized in paragraph  
2                   (2).

3                   “(2) SUBSCRIBER OR CUSTOMER INFORMA-  
4                   TION.—A provider of electronic communication serv-  
5                   ice or remote computing service shall, in response to  
6                   an administrative subpoena authorized by Federal or  
7                   State statute, a grand jury, trial, or civil discovery  
8                   subpoena, or any means available under paragraph  
9                   (1), disclose to a governmental entity the—

10                   “(A) name;

11                   “(B) address;

12                   “(C) local and long distance telephone con-  
13                   nection records, or records of session times and  
14                   durations;

15                   “(D) length of service (including start  
16                   date) and types of service used;

17                   “(E) telephone or instrument number or  
18                   other subscriber or customer number or iden-  
19                   tity, including any temporarily assigned net-  
20                   work address; and

21                   “(F) means and source of payment for  
22                   such service (including any credit card or bank  
23                   account number),

24                   of a subscriber or customer of such service.

1           “(3) NOTICE NOT REQUIRED.—A governmental  
2           entity that receives records or information under  
3           this subsection is not required to provide notice to  
4           a subscriber or customer.”;

5           (2) in subsection (d)—

6                   (A) by striking “(b) or”;

7                   (B) by striking “the contents of a wire or  
8           electronic communication, or”;

9                   (C) by striking “sought,” and inserting  
10           “sought”; and

11                   (D) by striking “section” and inserting  
12           “subsection”; and

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

14           “(h) NOTICE.—Except as provided in section 2705,  
15           a provider of electronic communication service or remote  
16           computing service may notify a subscriber or customer of  
17           a receipt of a warrant, court order, subpoena, or request  
18           under subsection (a), (b), (c), or (d) of this section.

19           “(i) RULE OF CONSTRUCTION RELATED TO LEGAL  
20           PROCESS.—Nothing in this section or in section 2702  
21           shall limit the authority of a governmental entity to use  
22           an administrative subpoena authorized by Federal or  
23           State statute, a grand jury, trial, or civil discovery sub-  
24           poena, or a warrant issued using the procedures described  
25           in the Federal Rules of Criminal Procedure (or, in the



1 case of a State court, issued using State warrant proce-  
2 dures) by a court of competent jurisdiction to—

3 “(1) require an originator, addressee, or in-  
4 tended recipient of a wire or electronic communica-  
5 tion to disclose a wire or electronic communication  
6 (including the contents of that communication) to  
7 the governmental entity;

8 “(2) require a person or entity that provides an  
9 electronic communication service to the officers, di-  
10 rectors, employees, or agents of the person or entity  
11 (for the purpose of carrying out their duties) to dis-  
12 close a wire or electronic communication (including  
13 the contents of that communication) to or from the  
14 person or entity itself or to or from an officer, direc-  
15 tor, employee, or agent of the entity to a govern-  
16 mental entity, if the wire or electronic communica-  
17 tion is stored, held, or maintained on an electronic  
18 communications system owned, operated, or con-  
19 trolled by the person or entity; or

20 “(3) require a person or entity that provides a  
21 remote computing service or electronic communica-  
22 tion service to disclose a wire or electronic commu-  
23 nication (including the contents of that communica-  
24 tion) that advertises or promotes a product or serv-

1 ice and that has been made readily accessible to the  
2 general public.

3 “(j) **RULE OF CONSTRUCTION RELATED TO CON-**  
4 **GRESSIONAL SUBPOENAS.**—Nothing in this section or in  
5 section 2702 shall limit the power of inquiry vested in the  
6 Congress by article I of the Constitution of the United  
7 States, including the authority to compel the production  
8 of a wire or electronic communication (including the con-  
9 tents of a wire or electronic communication) that is stored,  
10 held, or maintained by a person or entity that provides  
11 remote computing service or electronic communication  
12 service.”.

13 **SEC. 1088. DELAYED NOTICE.**

14 Section 2705 of title 18, United States Code, is  
15 amended to read as follows:

16 **“§ 2705. Delayed notice**

17 “(a) **IN GENERAL.**—A governmental entity acting  
18 under section 2703 may apply to a court for an order di-  
19 recting a provider of electronic communication service or  
20 remote computing service to which a warrant, order, sub-  
21 poena, or other directive under section 2703 is directed  
22 not to notify any other person of the existence of the war-  
23 rant, order, subpoena, or other directive.

24 “(b) **DETERMINATION.**—A court shall grant a re-  
25 quest for an order made under subsection (a) for delayed

1 notification of up to 180 days if the court determines that  
2 there is reason to believe that notification of the existence  
3 of the warrant, order, subpoena, or other directive will  
4 likely result in—

5           “(1) endangering the life or physical safety of  
6           an individual;

7           “(2) flight from prosecution;

8           “(3) destruction of or tampering with evidence;

9           “(4) intimidation of potential witnesses; or

10           “(5) otherwise seriously jeopardizing an inves-  
11           tigation or unduly delaying a trial.

12           “(c) EXTENSION.—Upon request by a governmental  
13           entity, a court may grant one or more extensions, for peri-  
14           ods of up to 180 days each, of an order granted in accord-  
15           ance with subsection (b).”.

16 **SEC. 1089. RULE OF CONSTRUCTION.**

17           Nothing in sections 1086, 1087, or 1088 or an  
18           amendment made by such sections shall be construed to  
19           preclude the acquisition by the United States Government  
20           of—

21           (1) the contents of a wire or electronic commu-  
22           nication pursuant to other lawful authorities, includ-  
23           ing the authorities under chapter 119 of title 18  
24           (commonly known as the “Wiretap Act”), the For-  
25           eign Intelligence Surveillance Act of 1978 (50

1 U.S.C. 1801 et seq.), or any other provision of Fed-  
2 eral law not specifically amended by this Act; or  
3 (2) records or other information relating to a  
4 subscriber or customer of any electronic communica-  
5 tion service or remote computing service (not includ-  
6 ing the content of such communications) pursuant to  
7 the Foreign Intelligence Surveillance Act of 1978  
8 (50 U.S.C. 1801 et seq.), chapter 119 of title 18  
9 (commonly known as the “Wiretap Act”), or any  
10 other provision of Federal law not specifically  
11 amended by this Act.

