



1                   esses communications of such covered  
2                   person;

3                   “(ii) collected by a third party from  
4                   an online account of a covered person; or

5                   “(iii) collected by a third party from  
6                   or about an electronic device of a covered  
7                   person;

8                   “(B) the term ‘covered person’ means—

9                   “(i) a person who is located inside the  
10                  United States; or

11                  “(ii) a person—

12                   “(I) who is located outside the  
13                   United States or whose location can-  
14                   not be determined; and

15                   “(II) who is a United States per-  
16                   son, as defined in section 101 of the  
17                   Foreign Intelligence Surveillance Act  
18                   of 1978 (50 U.S.C. 1801);

19                  “(C) the term ‘covered record’—

20                   “(i) means a record or other informa-  
21                   tion that—

22                   “(I) pertains to a covered person;

23                   and

24                   “(II) is—

1                   “(aa) a record or other in-  
2                   formation described in the matter  
3                   preceding paragraph (1) of sub-  
4                   section (c);

5                   “(bb) the contents of a com-  
6                   munication; or

7                   “(cc) location information;  
8                   and

9                   “(ii) does not mean a record or other  
10                  information that—

11                  “(I) has been voluntarily made  
12                  available to the general public by a  
13                  covered person on a social media plat-  
14                  form or similar service; or

15                  “(II) is lawfully available to the  
16                  public as a Federal, State, or local  
17                  government record or through other  
18                  widely distributed media;

19                  “(III) is obtained by a law en-  
20                  forcement agency of a governmental  
21                  entity or an element of the intelligence  
22                  community for the purpose of con-  
23                  ducting a background check of a cov-  
24                  ered person—

1                   “(aa) with the written con-  
2                   sent of such person;

3                   “(bb) for access or use by  
4                   such agency or element for the  
5                   purpose of such background  
6                   check; and

7                   “(cc) that is destroyed after  
8                   the date on which it is no longer  
9                   needed for such background  
10                  check;

11                  “(D) the term ‘electronic device’ has the  
12                  meaning given the term ‘computer’ in section  
13                  1030(e);

14                  “(E) the term ‘illegitimately obtained in-  
15                  formation’ means a covered record that—

16                         “(i) was obtained—

17                                 “(I) from a provider of an elec-  
18                                 tronic communication service to the  
19                                 public or a provider of a remote com-  
20                                 puting service in a manner that—

21   “(aa) violates the service  
22   agreement between the provider  
23   and customers or subscribers of  
24   the provider; or

1                   “(bb) is inconsistent with  
2                   the privacy policy of the provider;

3                   “(II) by deceiving the covered  
4                   person whose covered record was ob-  
5                   tained; or

6                   “(III) through the unauthorized  
7                   accessing of an electronic device or  
8                   online account; or

9                   “(ii) was—

10                   “(I) obtained from a provider of  
11                   an electronic communication service to  
12                   the public, a provider of a remote  
13                   computing service, or an intermediary  
14                   service provider; and

15                   “(II) collected, processed, or  
16                   shared in violation of a contract relat-  
17                   ing to the covered record;

18                   “(F) the term ‘intelligence community’ has  
19                   the meaning given that term in section 3 of the  
20                   National Security Act of 1947 (50 U.S.C.  
21                   3003);

22                   “(G) the term ‘location information’ means  
23                   information derived or otherwise calculated  
24                   from the transmission or reception of a radio  
25                   signal that reveals the approximate or actual

1 geographic location of a customer, subscriber,  
2 or device;

3 “(H) the term ‘obtain in exchange for any-  
4 thing of value’ means to obtain by purchasing,  
5 to receive in connection with services being pro-  
6 vided for consideration, or to otherwise obtain  
7 in exchange for consideration, including an ac-  
8 cess fee, service fee, maintenance fee, or licens-  
9 ing fee;

10 “(I) the term ‘online account’ means an  
11 online account with an electronic communica-  
12 tion service to the public or remote computing  
13 service;

14 “(J) the term ‘pertain’, with respect to a  
15 person, means—

16 “(i) information that is linked to the  
17 identity of a person; or

18 “(ii) information—

19 “(I) that has been anonymized to  
20 remove links to the identity of a per-  
21 son; and

22 “(II) that, if combined with other  
23 information, could be used to identify  
24 a person; and

1           “(K) the term ‘third party’ means a person  
2           who—

3                   “(i) is not a governmental entity; and

4                   “(ii) in connection with the collection,  
5                   disclosure, obtaining, processing, or shar-  
6                   ing of the covered record at issue, was not  
7                   acting as—

8                           “(I) a provider of an electronic  
9                           communication service to the public;

10                           or

11                           “(II) a provider of a remote com-  
12                           puting service.

13           “(2) LIMITATION.—

14                   “(A) IN GENERAL.—A law enforcement  
15                   agency of a governmental entity and an element  
16                   of the intelligence community may not obtain  
17                   from a third party in exchange for anything of  
18                   value a covered customer or subscriber record  
19                   or any illegitimately obtained information.

20                   “(B) INDIRECTLY ACQUIRED RECORDS  
21                   AND INFORMATION.—The limitation under sub-  
22                   paragraph (A) shall apply without regard to  
23                   whether the third party possessing the covered  
24                   customer or subscriber record or illegitimately  
25                   obtained information is the third party that ini-

1           tially obtained or collected, or is the third party  
2           that initially received the disclosure of, the cov-  
3           ered customer or subscriber record or illegit-  
4           imately obtained information.

5           “(3) LIMIT ON SHARING BETWEEN AGEN-  
6           CIES.—An agency of a governmental entity that is  
7           not a law enforcement agency or an element of the  
8           intelligence community may not provide to a law en-  
9           forcement agency of a governmental entity or an ele-  
10          ment of the intelligence community a covered cus-  
11          tomer or subscriber record or illegitimately obtained  
12          information that was obtained from a third party in  
13          exchange for anything of value.

14          “(4) PROHIBITION ON USE AS EVIDENCE.—A  
15          covered customer or subscriber record or illegit-  
16          imately obtained information obtained by or pro-  
17          vided to a law enforcement agency of a governmental  
18          entity or an element of the intelligence community in  
19          violation of paragraph (2) or (3), and any evidence  
20          derived therefrom, may not be received in evidence  
21          in any trial, hearing, or other proceeding in or be-  
22          fore any court, grand jury, department, officer,  
23          agency, regulatory body, legislative committee, or  
24          other authority of the United States, a State, or a  
25          political subdivision thereof.



1 “(5) MINIMIZATION PROCEDURES.—

2 “(A) IN GENERAL.—The Attorney General  
3 shall adopt specific procedures that are reason-  
4 ably designed to minimize the acquisition and  
5 retention, and prohibit the dissemination, of in-  
6 formation pertaining to a covered person that is  
7 acquired in violation of paragraph (2) or (3).

8 “(B) USE BY AGENCIES.—If a law enforce-  
9 ment agency of a governmental entity or ele-  
10 ment of the intelligence community acquires in-  
11 formation pertaining to a covered person in vio-  
12 lation of paragraph (2) or (3), the law enforce-  
13 ment agency of a governmental entity or ele-  
14 ment of the intelligence community shall mini-  
15 mize the acquisition and retention, and prohibit  
16 the dissemination, of the information in accord-  
17 ance with the procedures adopted under sub-  
18 paragraph (A).”.

19 **SEC. \_\_\_\_. REQUIRED DISCLOSURE.**

20 Section 2703 of title 18, United States Code, is  
21 amended by adding at the end the following:

22 “(i) COVERED CUSTOMER OR SUBSCRIBER RECORDS  
23 AND ILLEGITIMATELY OBTAINED INFORMATION.—

24 “(1) DEFINITIONS.—In this subsection, the  
25 terms ‘covered customer or subscriber record’, ‘ille-

1        legitimately obtained information’, and ‘third party’  
2        have the meanings given such terms in section  
3        2702(e).

4            “(2) LIMITATION.—Unless a governmental enti-  
5        ty obtains an order in accordance with paragraph  
6        (3), the governmental entity may not require a third  
7        party to disclose a covered customer or subscriber  
8        record or any illegitimately obtained information if a  
9        court order would be required for the governmental  
10       entity to require a provider of remote computing  
11       service or a provider of electronic communication  
12       service to the public to disclose such a covered cus-  
13       tomer or subscriber record or illegitimately obtained  
14       information that is a record of a customer or sub-  
15       scriber of the provider.

16            “(3) ORDERS.—

17            “(A) IN GENERAL.—A court may only  
18        issue an order requiring a third party to dis-  
19        close a covered customer or subscriber record or  
20        any illegitimately obtained information on the  
21        same basis and subject to the same limitations  
22        as would apply to a court order to require dis-  
23        closure by a provider of remote computing serv-  
24        ice or a provider of electronic communication

1 service to the public of a record of a customer  
2 or subscriber of the provider.

3 “(B) STANDARD.—For purposes of sub-  
4 paragraph (A), a court shall apply the most  
5 stringent standard under Federal statute or the  
6 Constitution of the United States that would be  
7 applicable to a request for a court order to re-  
8 quire a comparable disclosure by a provider of  
9 remote computing service or a provider of elec-  
10 tronic communication service to the public of a  
11 record of a customer or subscriber of the pro-  
12 vider.”.

13 **SEC. \_\_\_\_ . INTERMEDIARY SERVICE PROVIDERS.**

14 (a) DEFINITION.—Section 2711 of title 18, United  
15 States Code, is amended—

16 (1) in paragraph (3), by striking “and” at the  
17 end;

18 (2) in paragraph (4), by striking the period at  
19 the end and inserting “; and”; and

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

21 “(5) the term ‘intermediary service provider’  
22 means an entity or facilities owner or operator that  
23 directly or indirectly delivers, stores, or processes  
24 communications for or on behalf of a provider of

1 electronic communication service to the public or a  
2 provider of remote computing service.”.

3 (b) PROHIBITION.—Section 2702(a) of title 18,  
4 United States Code, is amended—

5 (1) in paragraph (1), by striking “and” at the  
6 end;

7 (2) in paragraph (2), by striking “and” at the  
8 end;

9 (3) in paragraph (3), by striking the period at  
10 the end and inserting “; and”; and

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

12 “(4) an intermediary service provider shall not  
13 knowingly divulge—

14 “(A) to any person or entity the contents  
15 of a communication while in electronic storage  
16 by that provider; or

17 “(B) to any governmental entity a record  
18 or other information pertaining to a subscriber  
19 to or customer of, a recipient of a communica-  
20 tion from a subscriber to or customer of, or the  
21 sender of a communication to a subscriber to or  
22 customer of, the provider of electronic commu-  
23 nication service to the public or the provider of  
24 remote computing service for, or on behalf of,  
25 which the intermediary service provider directly

1 or indirectly delivers, transmits, stores, or proc-  
2 esses communications.”.

3 **SEC. \_\_\_\_ . LIMITS ON SURVEILLANCE CONDUCTED FOR**  
4 **FOREIGN INTELLIGENCE PURPOSES OTHER**  
5 **THAN UNDER THE FOREIGN INTELLIGENCE**  
6 **SURVEILLANCE ACT OF 1978.**

7 (a) IN GENERAL.—Section 2511(2)(f) of title 18,  
8 United States Code, is amended to read as follows:

9 “(f)(i)(A) Nothing contained in this chap-  
10 ter, chapter 121 or 206 of this title, or section  
11 705 of the Communications Act of 1934 (47  
12 U.S.C. 151 et seq.) shall be deemed to affect an  
13 acquisition or activity described in subclause  
14 (II) that is carried out utilizing a means other  
15 than electronic surveillance, as defined in sec-  
16 tion 101 of the Foreign Intelligence Surveil-  
17 lance Act of 1978 (50 U.S.C. 1801).

18 “(B) An acquisition or activity described in  
19 this clause is—

20 “(I) an acquisition by the United  
21 States Government of foreign intelligence  
22 information from international or foreign  
23 communications that—

24 “(aa) is acquired pursuant to ex-  
25 press statutory authority; or

1 “(bb) only includes information  
2 of persons who are not United States  
3 persons and are located outside the  
4 United States; or

5 “(II) a foreign intelligence activity in-  
6 volving a foreign electronic communica-  
7 tions system that—

8 “(aa) is conducted pursuant to  
9 express statutory authority; or

10 “(bb) only involves the acquisi-  
11 tion by the United States Government  
12 of information of persons who are not  
13 United States persons and are located  
14 outside the United States.

15 “(ii) The procedures in this chapter, chap-  
16 ter 121, and the Foreign Intelligence Surveil-  
17 lance Act of 1978 (50 U.S.C. 1801 et seq.)  
18 shall be the exclusive means by which electronic  
19 surveillance, as defined in section 101 of such  
20 Act, and the interception of domestic wire, oral,  
21 and electronic communications may be con-  
22 ducted.”.

23 (b) EXCLUSIVE MEANS RELATED TO COMMUNICA-  
24 TIONS RECORDS.—The Foreign Intelligence Surveillance  
25 Act of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive

1 means by which electronic communications transactions  
2 records, call detail records, or other information from com-  
3 munications of United States persons or persons inside the  
4 United States are acquired for foreign intelligence pur-  
5 poses inside the United States or from a person or entity  
6 located in the United States that provides telecommuni-  
7 cations, electronic communication, or remote computing  
8 services.

9 (c) EXCLUSIVE MEANS RELATED TO LOCATION IN-  
10 FORMATION, WEB BROWSING HISTORY, AND INTERNET  
11 SEARCH HISTORY.—

12 (1) DEFINITION.—In this subsection, the term  
13 “location information” has the meaning given that  
14 term in subsection (e) of section 2702 of title 18,  
15 United States Code, as added by section 2 of this  
16 Act.

17 (2) EXCLUSIVE MEANS.—Title I and sections  
18 303, 304, 702, 703, 704, and 705 of the Foreign In-  
19 telligence Surveillance Act of 1978 (50 U.S.C. 1801  
20 et seq., 1823, 1824, 1881a, 1881b, 1881c, 1881d)  
21 shall be the exclusive means by which location infor-  
22 mation, web browsing history, and internet search  
23 history of United States persons or persons inside  
24 the United States are acquired for foreign intel-

1           ligence purposes inside the United States or from a  
2           person or entity located in the United States.

3           (d) **EXCLUSIVE MEANS RELATED TO FOURTH**  
4 **AMENDMENT-PROTECTED INFORMATION.**—Title I and  
5 sections 303, 304, 702, 703, 704, and 705 of the Foreign  
6 Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et  
7 seq., 1823, 1824, 1881a, 1881b, 1881c, 1881d) shall be  
8 the exclusive means by which any information, records,  
9 data, or tangible things are acquired for foreign intel-  
10 lligence purposes from a person or entity located in the  
11 United States if the compelled production of such informa-  
12 tion, records, data, or tangible things would require a war-  
13 rant for law enforcement purposes.

14           (e) **DEFINITION.**—In this section, the term “United  
15 States person” has the meaning given that term in section  
16 101 of the Foreign Intelligence Surveillance Act of 1978  
17 (50 U.S.C. 1801).

18 **SEC. \_\_\_\_ . LIMIT ON CIVIL IMMUNITY FOR PROVIDING IN-**  
19 **FORMATION, FACILITIES, OR TECHNICAL AS-**  
20 **SISTANCE TO THE GOVERNMENT ABSENT A**  
21 **COURT ORDER.**

22           Section 2511(2)(a) of title 18, United States Code,  
23 is amended—

24                   (1) in subparagraph (ii) by striking clause (b)  
25           inserting the following:



1 “(B) a certification in writing—

2 “(i) by a person specified in sec-  
3 tion 2518(7) or the Attorney General  
4 of the United States;

5 “(ii) that the requirements for an  
6 emergency authorization to intercept a  
7 wire, oral, or electronic communica-  
8 tion under section 2518(7) have been  
9 met; and

10 “(iii) that the specified assistance  
11 is required,”; and

12 (2) by striking subparagraph (iii) and inserting  
13 the following:

14 “(iii) For assistance provided pursuant to  
15 a certification under subparagraph (ii)(B), the  
16 limitation on causes of action under the last  
17 sentence of the matter following subparagraph  
18 (ii)(B) shall only apply to the extent that the  
19 assistance ceased at the earliest of the time the  
20 application for a court order was denied, the  
21 time the communication sought was obtained,  
22 or 48 hours after the interception began.”.

