

HR 3199 IH

109th CONGRESS

1st Session

**H. R. 3199**

To extend and modify authorities needed to combat terrorism, and for other purposes.

**IN THE HOUSE OF REPRESENTATIVES**

**July 11, 2005**

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Select Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

**A BILL**

To extend and modify authorities needed to combat terrorism, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005'.

**SEC. 2. REFERENCES TO USA PATRIOT ACT.**

A reference in this Act to the USA PATRIOT ACT shall be deemed

a reference to the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001.

### **SEC. 3. REPEAL OF USA PATRIOT ACT SUNSET PROVISION.**

Section 224 of the USA PATRIOT ACT is repealed.

### **SEC. 4. REPEAL OF SUNSET PROVISION RELATING TO INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS.**

Section 6001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3742) is amended by--

(1) striking subsection (b); and

(2) striking `(a)' and all that follows through `Section' and inserting `Section'.

### **SEC. 5. REPEAL OF SUNSET PROVISION RELATING TO SECTION 2332B AND THE MATERIAL SUPPORT SECTIONS OF TITLE 18, UNITED STATES CODE.**

Section 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3762) is amended by striking subsection (g).

### **SEC. 6. SHARING OF ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION UNDER SECTION 203(B) OF THE USA PATRIOT ACT.**

Section 2517(6) of title 18, United States Code, is amended by adding at the end the following: `Within a reasonable time after a disclosure of the contents of a communication under this subsection, an attorney for the Government shall file, under seal,

a notice with a judge whose order authorized or approved the interception of that communication, stating the fact that such contents were disclosed and the departments, agencies, or entities to which the disclosure was made.'.

## **SEC. 7. DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS UNDER SECTION 207 OF THE USA PATRIOT ACT.**

(a) Electronic Surveillance- Section 105(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1805(e)), is amended--

(1) in paragraph (1)(B), by striking ` , as defined in section 101(b)(1)(A)' and inserting ` who is not a United States person'; and

(2) in subsection (2)(B), by striking ` as defined in section 101(b)(1)(A)' and inserting ` who is not a United States person'.

(b) Physical Search- Section 304(d) of such Act (50 U.S.C. 1824(d)) is amended--

(1) in paragraph (1)(B), by striking ` as defined in section 101(b)(1)(A)' and inserting ` who is not a United States person'; and

(2) in paragraph (2), by striking ` as defined in section 101(b)(1)(A)' and inserting ` who is not a United States person'.

(c) Pen Registers, Trap and Trace Devices- Section 402(e) of such Act (50 U.S.C. 1842(e)) is amended--

(1) by striking ` (e) An' and inserting ` (e)(1) Except as provided in paragraph (2), an'; and

(2) by adding at the end the following new paragraph:

` (2) In the case of an application under subsection (c) where the

applicant has certified that the information likely to be obtained is foreign intelligence information not concerning a United States person, an order, or an extension of an order, under this section may be for a period not to exceed one year.'

## **SEC. 8. ACCESS TO CERTAIN BUSINESS RECORDS UNDER SECTION 501 OF FISA UNDER SECTION 215 OF THE USA PATRIOT ACT.**

(a) Establishment of Relevance Standard- Subsection (b)(2) of section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861), is amended by striking `to obtain' and all that follows and inserting `and that the information likely to be obtained from the tangible things is reasonably expected to be (A) foreign intelligence information not concerning a United States person, or (B) relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities.'

(b) Clarification of Judicial Discretion- Subsection (c)(1) of such section is amended to read as follows:

`(c)(1) Upon an application made pursuant to this section, if the judge finds that the application meets the requirements of subsections (a) and (b), the judge shall enter an ex parte order as requested, or as modified, approving the release of records.'

(c) Authority to Disclose to Attorney- Subsection (d) of such section is amended to read as follows:

`(d)(1) No person shall disclose to any person (other than a qualified person) that the United States has sought or obtained tangible things under this section.

`(2) An order under this section shall notify the person to whom the order is directed of the nondisclosure requirement under paragraph (1).

`(3) Any person to whom an order is directed under this section

who discloses that the United States has sought to obtain tangible things under this section to a qualified person in response to the order shall inform such qualified person of the nondisclosure requirement under paragraph (1) and that such qualified person is also subject to such nondisclosure requirement.

`(4) A qualified person shall be subject to any nondisclosure requirement applicable to a person to whom an order is directed under this section in the same manner as such person.

`(5) In this subsection, the term `qualified person' means--

`(A) any person necessary to produce the tangible things pursuant to an order under this section; or

`(B) an attorney to obtain legal advice in response to an order under this section.'.

(d) Judicial Review-

(1) PETITION REVIEW PANEL- Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

`(e)(1) Three judges designated under subsection (a) who reside within 20 miles of the District of Columbia, or if all of such judges are unavailable, other judges of the court established under subsection (a) as may be designated by the Presiding Judge of such court (who is designated by the Chief Justice of the United States from among the judges of the court), shall comprise a petition review panel which shall have jurisdiction to review petitions filed pursuant to section 501(f)(1).

`(2) Not later than 60 days after the date of the enactment of the USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005, the court established under subsection (a) shall develop and issue procedures for the review of petitions filed pursuant to section 501(f)(1) by the panel established under paragraph (1).

Such procedures shall provide that review of a petition shall be conducted ex parte and in camera and shall also provide for the designation of an Acting Presiding Judge.'.

(2) PROCEEDINGS- Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is further amended by adding at the end the following new subsection:

`(f)(1) A person receiving an order to produce any tangible thing under this section may challenge the legality of that order by filing a petition in the panel established by section 103(e)(1). The Presiding Judge shall conduct an initial review of the petition. If the Presiding Judge determines that the petition is frivolous, the Presiding Judge shall immediately deny the petition and promptly provide a written statement of the reasons for the determination for the record. If the Presiding Judge determines that the petition is not frivolous, the Presiding Judge shall immediately assign the petition to one of the judges serving on such panel. The assigned judge shall promptly consider the petition in accordance with procedures developed and issued pursuant to section 103(e)(2). The judge considering the petition may modify or set aside the order only if the judge finds that the order does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the order, the judge shall immediately affirm the order and order the recipient to comply therewith. A petition for review of a decision to affirm, modify, or set aside an order by the United States or any person receiving such order shall be to the court of review established under section 103(b), which shall have jurisdiction to consider such petitions. The court of review shall immediately provide for the record a written statement of the reasons for its decision and, on petition of the United States or any person receiving such order for writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

`(2) Judicial proceedings under this subsection shall be concluded as expeditiously as possible. The judge considering a

petition filed under this subsection shall provide for the record a written statement of the reasons for the decision. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of National Intelligence.

`(3) All petitions under this subsection shall be filed under seal, and the court, upon the government's request, shall review any government submission, which may include classified information, as well as the government's application and related materials, ex parte and in camera.'.

*END*

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