

116TH CONGRESS  
2D SESSION

# H. R. 7891

To improve the ability of law enforcement agencies to access encrypted data,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2020

Mrs. WAGNER introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Intelligence (Permanent Select), and Science, Space, and Technology, 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

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## A BILL

To improve the ability of law enforcement agencies to access  
encrypted data, 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.**

4 This Act may be cited as the “Lawful Access to  
5 Encrypted Data Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

## TITLE I—DATA AT REST

Sec. 101. Data at rest.

## TITLE II—DATA IN MOTION

Sec. 201. Assistance.  
 Sec. 202. Capability.  
 Sec. 203. CALEA amendment.

## TITLE III—ASSISTANCE CAPABILITY DIRECTIVES

Sec. 301. Assistance capability directives.

## TITLE IV—PEN REGISTER AND TRAP AND TRACE AMENDMENTS

Sec. 401. Capability requirements.  
 Sec. 402. Defining technical assistance.

## TITLE V—FISA AMENDMENTS

Sec. 501. Electronic surveillance within the United States for foreign intelligence purposes.  
 Sec. 502. Physical searches within the United States for foreign intelligence purposes.  
 Sec. 503. Pen register; trap and trace.  
 Sec. 504. Business records.  
 Sec. 505. Certain acquisitions inside the United States targeting United States persons outside the United States.

## TITLE VI—PRIZE COMPETITION

Sec. 601. Findings.  
 Sec. 602. Definitions.  
 Sec. 603. Prize competition.  
 Sec. 604. Implementation.  
 Sec. 605. Judges.  
 Sec. 606. Report to Congress.  
 Sec. 607. Authorization of appropriations.  
 Sec. 608. Termination of authority.

## TITLE VII—LAWFUL ACCESS TRAINING

Sec. 701. Lawful access training program.

## TITLE VIII—EFFECTIVE DATE

Sec. 801. Effective date.

1           **TITLE I—DATA AT REST**

2   **SEC. 101. DATA AT REST.**

3           (a) IN GENERAL.—Chapter 205 of title 18, United  
 4 States Code, is amended by adding at the end the fol-  
 5 lowing:

1 **“§ 3119. Assistance orders to third parties and capa-**  
2 **bility requirements**

3 “(a) DEFINITIONS.—In this section—

4 “(1) the term ‘consumer electronic device’  
5 means a device that—

6 “(A) may be purchased by a member of  
7 the general public; and

8 “(B) can be configured to store 1 gigabyte  
9 of data or more;

10 “(2) the term ‘court of competent jurisdiction’  
11 means—

12 “(A) a district court of the United States  
13 (including a magistrate judge of such a court)  
14 or a United States court of appeals; and

15 “(B) a court of general criminal jurisdic-  
16 tion of a State authorized by the law of that  
17 State to issue search warrants;

18 “(3) the term ‘device manufacturer’ means a  
19 person who designs, manufactures, fabricates, or as-  
20 sembles a finished consumer electronic device;

21 “(4) the term ‘governmental entity’ has the  
22 meaning given the term in section 2711;

23 “(5) the term ‘operating system provider’  
24 means a person who designs, markets, or sells soft-  
25 ware that—

1           “(A) controls the operation of a consumer  
2           electronic device; and

3           “(B) directs the processing of programs on  
4           the consumer electronic device (such as by as-  
5           signing storage space in memory and control-  
6           ling input and output functions);

7           “(6) the term ‘remote computing service’ has  
8           the meaning given the term in section 2711; and

9           “(7) the term ‘State’ means any State of the  
10          United States, the District of Columbia, the Com-  
11          monwealth of Puerto Rico, and any territory or pos-  
12          session of the United States.

13          “(b) COURT ORDER FOR ASSISTANCE.—

14                 “(1) IN GENERAL.—A court of competent juris-  
15                 diction, in support of a search warrant based upon  
16                 probable cause issued by the court that authorizes  
17                 the search of an electronic device or remotely stored  
18                 electronic information, shall, upon receiving a mo-  
19                 tion described in paragraph (3) that states reason-  
20                 able grounds to believe that the assistance required  
21                 by the order will aid in the execution of the warrant,  
22                 order a device manufacturer, an operating system  
23                 provider, a provider of remote computing service, or  
24                 another person to furnish all information, facilities,  
25                 and assistance necessary to access information

1 stored on an electronic device or to access remotely  
2 stored electronic information, as authorized by the  
3 search warrant.

4 “(2) ASSISTANCE.—The information, facilities,  
5 and assistance ordered to be furnished under para-  
6 graph (1) shall include—

7 “(A) isolating the information authorized  
8 to be searched;

9 “(B) decrypting or decoding information  
10 on the electronic device or remotely stored elec-  
11 tronic information that is authorized to be  
12 searched, or otherwise providing such informa-  
13 tion in an intelligible format, unless the inde-  
14 pendent actions of an unaffiliated entity make  
15 it technically impossible to do so; and

16 “(C) providing technical support as nec-  
17 essary to ensure effective execution of the war-  
18 rant for the electronic devices particularly de-  
19 scribed by the warrant.

20 “(3) MOTION.—An attorney for a governmental  
21 entity may move that the court issue an order under  
22 this subsection—

23 “(A) after a search warrant that author-  
24 izes the search of an electronic device or re-

1 motely stored electronic information has been  
2 issued; or

3 “(B) concurrently with an application for a  
4 search warrant described in subparagraph (A).

5 “(4) COMPENSATION AND EXEMPTION FROM LI-  
6 ABILITY.—

7 “(A) IN GENERAL.—Subject to subpara-  
8 graph (B), a device manufacturer, operating  
9 system provider, provider of remote computing  
10 service, or other person furnishing information,  
11 facilities, or assistance pursuant to an order  
12 issued under this subsection—

13 “(i) shall be compensated for reason-  
14 able expenses directly incurred in com-  
15 plying with the order; and

16 “(ii) may not be held civilly liable to  
17 any party for any action taken that is rea-  
18 sonably necessary to comply with the  
19 order.

20 “(B) LIMITATION.—Reasonable expenses  
21 under subparagraph (A) may not exceed \$300.

22 “(c) CAPABILITY TO ASSIST.—

23 “(1) DEVICE MANUFACTURERS.—A device man-  
24 ufacturer that sold more than 1,000,000 consumer  
25 electronic devices in the United States in 2016 or

1 any calendar year thereafter, or that has received an  
2 assistance capability directive under section 3513,  
3 shall ensure that the manufacturer has the ability to  
4 provide the assistance described in subsection (b)(2)  
5 for any consumer electronic device that the manufac-  
6 turer—

7 “(A) designs, manufactures, fabricates, or  
8 assembles; and

9 “(B) intends for sale or distribution in the  
10 United States.

11 “(2) PROVIDERS OF REMOTE COMPUTING SERV-  
12 ICE; OPERATING SYSTEM PROVIDERS.—A provider of  
13 remote computing service or operating system pro-  
14 vider that provided service to more than 1,000,000  
15 subscribers or users in the United States in 2016 or  
16 any calendar year thereafter, or that has received an  
17 assistance capability directive under section 3513,  
18 shall ensure that the provider has the ability to pro-  
19 vide the assistance described in subparagraphs (A)  
20 and (B) of subsection (b)(2) for any remotely stored  
21 data that the provider processes or stores.

22 “(3) CONTRACTING AUTHORIZED.—A device  
23 manufacturer, provider of remote computing service,  
24 or operating system provider may satisfy the obliga-  
25 tions under this subsection by contracting with any

1 other United States person or entity to provide the  
2 required assistance.

3 “(4) COSTS.—A device manufacturer, provider  
4 of remote computing service, or operating system  
5 provider to which this subsection applies shall bear  
6 the costs associated with the development of the ca-  
7 pability required under this subsection, including  
8 any contracting costs incurred by the device manu-  
9 facturer, provider of remote computing service, or  
10 operating system provider under paragraph (3), un-  
11 less the manufacturer or provider has received an  
12 assistance capability directive under section 3513.”.

13 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
14 The table of sections for chapter 205 of title 18, United  
15 States Code, is amended by adding at the end the fol-  
16 lowing:

“3119. Assistance orders to third parties and capability requirements.”.

17 (c) APPLICABILITY.—The obligation under section  
18 3119(c)(1) of title 18, United States Code, as added by  
19 subsection (a), shall apply with respect to a consumer elec-  
20 tronic device manufactured on or after the effective date  
21 in section 801 of this Act.

## 22 **TITLE II—DATA IN MOTION**

### 23 **SEC. 201. ASSISTANCE.**

24 Section 2518(4) of title 18, United States Code, is  
25 amended, in the undesignated matter following paragraph



1 (e), by striking “with a minimum of interference with the  
2 services that such service provider, landlord, custodian, or  
3 person is according the person whose communications are  
4 to be intercepted. Any provider of wire or electronic com-  
5 munication service, landlord, custodian or other person  
6 furnishing such facilities or technical assistance shall be  
7 compensated therefor by the applicant for reasonable ex-  
8 penses incurred in providing such facilities or assistance.”  
9 and inserting the following: “in a manner designed to up-  
10 hold the nondisclosure obligations under section  
11 2511(2)(a)(ii).

12 Such furnishing of information, facilities, and technical as-  
13 sistance shall include—

14 “(i) isolating all communications au-  
15 thorized to be intercepted;

16 “(ii) decrypting, decoding, or other-  
17 wise providing in an intelligible format the  
18 communications authorized to be inter-  
19 cepted, unless the independent actions of  
20 an unaffiliated entity make it technically  
21 impossible to do so; and

22 “(iii) delivering all communications  
23 authorized to be intercepted securely, reli-  
24 ably, and concurrently with their trans-  
25 mission.

1 Any provider of wire or electronic communication service,  
2 landlord, custodian, or other person furnishing such infor-  
3 mation, facilities, or technical assistance shall be com-  
4 pensated therefor by the applicant for reasonable expenses  
5 directly incurred in providing such information, facilities,  
6 or assistance.”.

7 **SEC. 202. CAPABILITY.**

8 (a) IN GENERAL.—Chapter 119 of title 18, United  
9 States Code, is amended by adding at the end the fol-  
10 lowing:

11 **“§ 2524. Capability requirements**

12 “(a) IN GENERAL.—A provider of wire or electronic  
13 communication service that had more than 1,000,000  
14 monthly active users in the United States in January 2016  
15 or any month thereafter, or has received an assistance ca-  
16 pability directive under section 3513, shall ensure that the  
17 provider has the ability to provide the information, facili-  
18 ties, and technical assistance described in section 2518(4).

19 “(b) CALCULATION OF MONTHLY ACTIVE USERS.—  
20 For purposes of subsection (a), the number of monthly  
21 active users of a wire or electronic communication service  
22 shall be calculated by taking the average of the number  
23 of individual users or subscribers of the service that are  
24 active per month in any calendar year.

1       “(c) COSTS.—A provider of wire or electronic commu-  
2       nication service to which subsection (a) applies shall bear  
3       any costs associated with the development of the capability  
4       required under that subsection, unless the provider has re-  
5       ceived an assistance capability directive under section  
6       3513.”.

7       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
8       The table of sections for chapter 119 of title 18, United  
9       States Code, is amended by adding at the end the fol-  
10      lowing:

    “2524. Capability requirements.”.

11      **SEC. 203. CALEA AMENDMENT.**

12      (a) IN GENERAL.—Section 103(b)(3) of the Commu-  
13      nications Assistance for Law Enforcement Act (47 U.S.C.  
14      1002(b)(3)) is amended—

15              (1) by striking “, or ensuring the government’s  
16              ability to decrypt,”;

17              (2) by striking “the encryption was provided”  
18              and inserting “the means of encryption or other en-  
19              coding was implemented by or facilitated”; and

20              (3) by striking “and the carrier possesses the  
21              information necessary to decrypt the communica-  
22              tion”.

1           **TITLE III—ASSISTANCE**  
2           **CAPABILITY DIRECTIVES**

3   **SEC. 301. ASSISTANCE CAPABILITY DIRECTIVES.**

4           (a) IN GENERAL.—Chapter 223 of title 18, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7   **“§ 3513. Assistance capability directives**

8           “(a) DEFINITIONS.—The definitions in sections 2510  
9 and 3119 shall apply to this section.

10          “(b) CONTENTS OF DIRECTIVES AND PROCEDURE  
11 FOR ISSUING.—

12           “(1) AUTHORITY.—

13                   “(A) IN GENERAL.—If the Attorney Gen-  
14 eral makes the applicable finding with respect  
15 to a person under paragraph (3), the Attorney  
16 General may direct the person to create or  
17 maintain any of the assistance capabilities de-  
18 scribed in section 2518, 2524, 3119, 3127, or  
19 3128.

20                   “(B) WRITTEN DIRECTIVE.—A directive  
21 issued under subparagraph (A) shall be in writ-  
22 ing.

23           “(2) REQUIRED REPORTING.—Not later than  
24 30 days after the date on which a person receives a  
25 directive from the Attorney General under para-

1 graph (1), the person shall report to the Attorney  
2 General, or a designee of the Attorney General, on,  
3 at a minimum—

4 “(A) any technical capabilities that the  
5 person knows or expects to be necessary to im-  
6 plement and comply with an anticipated court  
7 order or other lawful authorization under sec-  
8 tion 2518, 3119, or 3123; and

9 “(B) the timeline of the person for devel-  
10 oping and deploying the technical capabilities  
11 described in subparagraph (A).

12 “(3) FINDINGS.—The Attorney General may  
13 issue a directive to a person under paragraph (1)  
14 only if the Attorney General finds—

15 “(A) in the case of assistance capabilities  
16 described in section 2518, 2524, or 3128 that  
17 during the preceding calendar year, communica-  
18 tions occurring over services the person offers,  
19 provides, or has access to were subject to not  
20 fewer than 5 court orders issued under—

21 “(i) chapter 119 of this title; or

22 “(ii) the Foreign Intelligence Surveil-  
23 lance Act of 1978 (50 U.S.C. 1801 et  
24 seq.); or

1           “(B) in the case of assistance capabilities  
2           described in section 3119, that, during the pre-  
3           ceding calendar year, data stored in any device,  
4           service, or operating system sold or licensed by  
5           the person was subject to not fewer than 5 Fed-  
6           eral or State search warrants.

7           “(4) RELEASE FROM LIABILITY.—No civil  
8           cause of action shall lie in any court against a per-  
9           son who receives a directive under paragraph (1) for  
10          any action or omission reasonably necessary to com-  
11          ply with the directive.

12          “(5) EFFECTIVE DATE AND EXPIRATION DATE  
13          OF DIRECTIVES.—

14                 “(A) IN GENERAL.—Subject to subpara-  
15                 graph (B), a directive issued under paragraph  
16                 (1) shall contain—

17                         “(i) a date on which the directive  
18                         takes effect; and

19                         “(ii) a date when the directive expires.

20                 “(B) LIMITS.—A directive issued under  
21                 paragraph (1) may not—

22                         “(i) take effect earlier than 180 days  
23                         after the date on which the directive is  
24                         issued; or

1                   “(ii) expire later than 2 years after  
2                   the date on which the directive takes ef-  
3                   fect.

4                   “(6) REPORTING.—Not later than 30 days after  
5                   the date on which a directive issued under para-  
6                   graph (1) takes effect, the Attorney General shall  
7                   submit to the Committee on the Judiciary of the  
8                   Senate and the Committee on the Judiciary of the  
9                   House of Representatives a copy of the directive.

10                  “(7) NO TECHNICAL DEMANDS.—A directive  
11                  issued to a person under paragraph (1) may not  
12                  specify technical means by which the person is re-  
13                  quired to implement the required capabilities.

14                  “(c) CHALLENGES OF DIRECTIVES AND APPEAL.—

15                  “(1) PETITION.—Not later than 30 days after  
16                  the date on which the Attorney General issues a di-  
17                  rective to a person under subsection (b), the person  
18                  may file a petition to modify or set aside the direc-  
19                  tive in the United States District Court for the Dis-  
20                  trict of Columbia.

21                  “(2) CONSIDERATION OF PETITION.—

22                          “(A) GRANT.—The court may grant a pe-  
23                          tition filed under paragraph (1) only if—

24                                  “(i) the directive does not meet the  
25                                  requirements of this section;

1           “(ii) the person filing the petition  
2 demonstrates, by clear and convincing evi-  
3 dence, that it is technically impossible for  
4 the person to make any change to the way  
5 the hardware, software, or other property  
6 of the person behaves in order to comply  
7 with the directive; or

8           “(iii) the directive is otherwise unlaw-  
9 ful.

10           “(B) DENIAL.—If none of the bases for  
11 granting a petition under subparagraph (A) are  
12 met, the court shall deny the petition.

13           “(C) EX PARTE REVIEW.—

14           “(i) IN GENERAL.—In considering a  
15 petition filed under paragraph (1), the  
16 court may review any information that the  
17 Attorney General, upon filing an affidavit  
18 under oath that disclosure of the informa-  
19 tion would harm the national security of  
20 the United States or harm the enforcement  
21 of criminal law, chooses to provide to the  
22 court solely for ex parte review.

23           “(ii) NO WAIVER OF PRIVILEGE.—The  
24 exercise of the authority under clause (i)  
25 does not waive any applicable privilege.



1 “(3) INITIAL REVIEW.—

2 “(A) DEADLINE.—Not later than 30 days  
3 after the date on which a petition is filed under  
4 paragraph (1), the court shall conduct an initial  
5 review of the petition.

6 “(B) REVIEW.—If the court determines  
7 that the petition does not consist of claims, de-  
8 fenses, or other legal contentions that are war-  
9 ranted by existing law or by a non-frivolous ar-  
10 gument for extending, modifying, or reversing  
11 existing law or for establishing new law, the  
12 court shall immediately—

13 “(i) deny the petition;

14 “(ii) affirm the directive or any part  
15 of the directive that is the subject of the  
16 petition; and

17 “(iii) order the recipient to comply  
18 with the directive or part thereof.

19 “(C) WRITTEN STATEMENT.—Upon mak-  
20 ing a determination under subparagraph (B) or  
21 promptly thereafter, the court shall provide a  
22 written statement for the record of the reasons  
23 for the determination.

24 “(4) PLENARY REVIEW.—

1           “(A) DEADLINE.—If the court determines  
2 that a petition filed under paragraph (1) re-  
3 quires plenary review—

4           “(i) not later than 60 days after the  
5 petition is filed, the court shall affirm,  
6 modify, or set aside the directive that is  
7 the subject of the petition; or

8           “(ii) if the court does not set aside  
9 the directive by the date specified under  
10 clause (i), the court shall immediately, or  
11 in any event not later than 5 days there-  
12 after—

13           “(I) affirm or affirm with modi-  
14 fications the directive; and

15           “(II) order the person who re-  
16 ceived the directive to comply with the  
17 directive in its entirety or as modified.

18           “(B) WRITTEN STATEMENT.—Upon mak-  
19 ing a determination under subparagraph (A) or  
20 promptly thereafter, the court shall provide a  
21 written statement for the record of the reasons  
22 for the determination.

23           “(5) APPEALS.—

24           “(A) RIGHT OF APPEAL.—The Attorney  
25 General or a person who receives a directive

1 under subsection (b) may appeal a final order  
2 of the district court under this subsection not  
3 later than 30 days after entry of the order.

4 “(B) PROCEDURE.—The United States  
5 Court of Appeals for the District of Columbia  
6 Circuit shall expedite the consideration of any  
7 appeal brought under this paragraph, and the  
8 expense or effort required to comply with a di-  
9 rective issued under subsection (b) shall not be  
10 a basis for staying a final order of the district  
11 court under this subsection pending appeal.

12 “(d) ENFORCEMENT OF DIRECTIVES.—

13 “(1) FAILURE TO COMPLY.—If a person fails to  
14 comply with a directive issued under subsection (b),  
15 the Attorney General may file a petition for an order  
16 to compel the person to comply with the directive in  
17 the United States District Court for the District of  
18 Columbia, which shall have jurisdiction to review the  
19 petition.

20 “(2) EX PARTE REVIEW.—

21 “(A) IN GENERAL.—In considering a peti-  
22 tion filed under paragraph (1), the court may  
23 review any information that the Attorney Gen-  
24 eral, upon filing an affidavit under oath that  
25 disclosure of the information would harm the

1 national security of the United States or harm  
2 the enforcement of criminal law, chooses to pro-  
3 vide to the court solely for ex parte review.

4 “(B) NO WAIVER OF PRIVILEGE.—The ex-  
5 ercise of the authority under subparagraph (A)  
6 does not waive any applicable privilege.

7 “(3) ORDER TO COMPLY.—

8 “(A) IN GENERAL.—Not later than 30  
9 days after a petition is filed under paragraph  
10 (1), the court shall issue an order requiring the  
11 person to comply with the directive or any part  
12 of the directive, as issued or as modified, if the  
13 court finds that the directive meets the require-  
14 ments of this section and is otherwise lawful.

15 “(B) WRITTEN STATEMENT.—Upon mak-  
16 ing a determination under subparagraph (A) or  
17 promptly thereafter, the court shall provide a  
18 written statement for the record of the reasons  
19 for the determination.

20 “(4) PENALTY.—Failure to obey an order  
21 issued under paragraph (3) shall constitute con-  
22 tempt of court.

23 “(5) PROCESS.—Any process under this sub-  
24 section may be served in any judicial district in  
25 which the recipient may be found or does business.

1           “(6) APPEALS.—

2                   “(A) RIGHT OF APPEAL.—The Attorney  
3           General or a person who receives a directive  
4           under subsection (b) may appeal a final order  
5           of the district court under this subsection not  
6           later than 30 days after entry of the order.

7                   “(B) PROCEDURE.—The United States  
8           Court of Appeals for the District of Columbia  
9           Circuit shall expedite the consideration of any  
10          appeal brought under this paragraph, and the  
11          expense or effort required to comply with a di-  
12          rective issued under subsection (b) shall not be  
13          a basis for staying a final order of the district  
14          court order under this subsection pending ap-  
15          peal.

16          “(e) COST REIMBURSEMENT.—

17                   “(1) IN GENERAL.—Subject to paragraph (3), a  
18          person who receives a directive under subsection (b)  
19          shall be compensated therefor by the United States  
20          for reasonable expenses directly incurred in com-  
21          plying with the directive.

22                   “(2) AMOUNT.—The amount of compensation  
23          provided under paragraph (1)—

1           “(A) shall be mutually agreed upon by the  
2           Attorney General and the person complying  
3           with the directive; or

4           “(B) in the absence of an agreement under  
5           subparagraph (A), shall be determined by the  
6           United States District Court for the District of  
7           Columbia.”.

8           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
9           The table of sections for chapter 223 of title 18, United  
10          States Code, is amended by adding at the end the fol-  
11          lowing:

          “3513. Assistance capability directives.”.

12          **TITLE IV—PEN REGISTER AND**  
13          **TRAP AND TRACE AMENDMENTS**

14          **SEC. 401. CAPABILITY REQUIREMENTS.**

15          (a) IN GENERAL.—Chapter 206 of title 18, United  
16          States Code, is amended by adding at the end the fol-  
17          lowing:

18          **“§ 3128. Capability requirements**

19               “(a) PEN REGISTER CAPABILITY.—

20                       “(1) IN GENERAL.—A wire or electronic com-  
21                       munication service provider that had more than  
22                       1,000,000 monthly active users in the United States  
23                       in January 2016 or any month thereafter shall en-  
24                       sure that the provider has the ability to provide the  
25                       information described in paragraphs (3) and (7) of

1 section 3127 directly to law enforcement agencies in  
2 an intelligible format unobtrusively and in a manner  
3 designed to uphold the nondisclosure obligations  
4 under section 3123(d)(2).

5 “(2) CALCULATION OF MONTHLY ACTIVE  
6 USERS.—For purposes of paragraph (1), the number  
7 of monthly active users of a wire or electronic com-  
8 munication service shall be calculated by taking the  
9 average of the number of individual users or sub-  
10 sscribers of the service that are active per month in  
11 any calendar year.

12 “(b) TRAP AND TRACE CAPABILITY.—

13 “(1) IN GENERAL.—A provider of wire or elec-  
14 tronic communication service that had more than  
15 1,000,000 monthly users in the United States in  
16 January 2016 or any month thereafter shall ensure  
17 that the provider has the ability to provide the infor-  
18 mation described in paragraphs (4) and (7) of sec-  
19 tion 3127 directly to law enforcement agencies in an  
20 intelligible format unobtrusively and in a manner de-  
21 signed to uphold the nondisclosure obligations under  
22 section 3123(d)(2).

23 “(2) CALCULATION OF MONTHLY ACTIVE  
24 USERS.—For purposes of paragraph (1), the number  
25 of monthly active users of a wire or electronic com-

1       munication service shall be calculated by taking the  
2       average of the number of individual users or sub-  
3       scribers of the service that are active per month in  
4       any calendar year.

5       “(c) COMPENSATION.—

6               “(1) IN GENERAL.—Subject to paragraph (2), a  
7       provider of wire or electronic communication service  
8       that provides the information described in paragraph  
9       (3), (4), or (7) of section 3127 directly to a law en-  
10      forcement agency shall be compensated for reason-  
11      able expenses directly incurred in providing the in-  
12      formation.

13              “(2) LIMITATION.—Reasonable expenses under  
14      paragraph (1) may not exceed \$150.”.

15      (b) TECHNICAL AND CONFORMING AMENDMENT.—

16      The table of sections for chapter 206 of title 18, United  
17      States Code, is amended by adding at the end the fol-  
18      lowing:

      “3128. Capability requirements.”.

19      **SEC. 402. DEFINING TECHNICAL ASSISTANCE.**

20      Section 3127 of title 18, United States Code, is  
21      amended—

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

24              (2) in paragraph (6), by striking the period at  
25      the end and inserting “; and”; and



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

2 “(7) the term ‘technical assistance’ includes—

3 “(A) isolating all dialing, routing, address-  
4 ing, and signaling information authorized to be  
5 acquired;

6 “(B) decrypting, decoding, or otherwise  
7 providing in an intelligible format the dialing,  
8 routing, addressing, and signaling information  
9 authorized to be acquired, unless the inde-  
10 pendent actions of an unaffiliated entity make  
11 it technically impossible to do so; and

12 “(C) delivering all dialing, routing, ad-  
13 dressing, and signaling information authorized  
14 to be acquired securely, reliably, and concu-  
15 rrently with its transmission.”.

## 16 **TITLE V—FISA AMENDMENTS**

### 17 **SEC. 501. ELECTRONIC SURVEILLANCE WITHIN THE** 18 **UNITED STATES FOR FOREIGN INTEL-** 19 **LIGENCE PURPOSES.**

20 Title I of the Foreign Intelligence Surveillance Act  
21 of 1978 (50 U.S.C. 1801 et seq.) is amended—

22 (1) in section 101 (50 U.S.C. 1801), by adding  
23 at the end the following:

24 “(q) ‘Technical assistance’ includes—



1           “(A) isolating all information, material, or  
2           property to be seized, reproduced, or altered;

3           “(B) decrypting, decoding, or otherwise  
4           providing in an intelligible format the informa-  
5           tion, material, or property to be seized, repro-  
6           duced, or altered, unless the independent ac-  
7           tions of an unaffiliated entity make it tech-  
8           nically impossible to do so; and

9           “(C) providing technical support as nec-  
10          essary to ensure effective execution of an order  
11          under this title.”; and

12          (2) in section 304(c)(2)(B) (50 U.S.C.  
13          1824(c)(2)(B)), by striking “produce a minimum of  
14          interference with the services that such landlord,  
15          custodian, or other person is providing the target of  
16          the physical search” and inserting “in a manner de-  
17          signed to minimize the possibility of alerting the tar-  
18          get of the physical search”.

19 **SEC. 503. PEN REGISTER; TRAP AND TRACE.**

20          Section 401 of the Foreign Intelligence Surveillance  
21          Act of 1978 (50 U.S.C. 1841) is amended by adding at  
22          the end the following:

23                 “(5) The term ‘technical assistance’ includes—

1           “(A) isolating all dialing, routing, address-  
2           ing, and signaling information authorized to be  
3           acquired;

4           “(B) decrypting, decoding, or otherwise  
5           providing in an intelligible format the dialing,  
6           routing, addressing, and signaling information  
7           authorized to be acquired, unless the inde-  
8           pendent actions of an unaffiliated entity make  
9           it technically impossible to do so; and

10           “(C) delivering all dialing, routing, ad-  
11           dressing, and signaling information authorized  
12           to be acquired securely, reliably, and concur-  
13           rently with its transmission.”.

14 **SEC. 504. BUSINESS RECORDS.**

15           Section 501(k) of the Foreign Intelligence Surveil-  
16           lance Act of 1978 (50 U.S.C. 1861(k)) is amended by add-  
17           ing at the end the following:

18           “(5) TECHNICAL ASSISTANCE.—The term ‘tech-  
19           nical assistance’ includes—

20           “(A) isolating the tangible things (includ-  
21           ing call detail records) required to be produced;

22           “(B) decrypting, decoding, or otherwise  
23           providing in an intelligible format the tangible  
24           things required to be produced, unless the inde-

1           pendent actions of an unaffiliated entity make  
2           it technically impossible to do so; and

3                   “(C) delivering all tangible things required  
4           to be produced securely, reliably, and no later  
5           than the date on which an order under this title  
6           requires their production.”.

7 **SEC. 505. CERTAIN ACQUISITIONS INSIDE THE UNITED**  
8                   **STATES TARGETING UNITED STATES PER-**  
9                   **SONS OUTSIDE THE UNITED STATES.**

10          Section 703 of the Foreign Intelligence Surveillance  
11 Act of 1978 (50 U.S.C. 1881b) is amended by adding at  
12 the end the following:

13          “(h) ASSISTANCE DEFINED.— For purposes of this  
14 section, the term ‘assistance’ includes—

15                   “(1) isolating all communications or informa-  
16 tion authorized to be acquired;

17                   “(2) decrypting, decoding, or otherwise pro-  
18 viding in an intelligible format the communications  
19 or information authorized to be acquired, unless the  
20 independent actions of an unaffiliated entity make it  
21 technically impossible to do so;

22                   “(3) delivering the communications or informa-  
23 tion authorized to be acquired securely, reliably, and  
24 concurrently with their transmission; and

1           “(4) providing technical support as necessary to  
2           ensure effective execution of an order under this sec-  
3           tion.”.

## 4   **TITLE VI—PRIZE COMPETITION**

### 5   **SEC. 601. FINDINGS.**

6           Congress finds the following:

7           (1) The rapidly growing use of warrant-proof  
8           encryption in everyday devices, platforms, and sys-  
9           tems allows illegal actors engaged in dangerous  
10          criminal activity—including child sexual abuse, ter-  
11          rorism, and international narcotics trafficking—to  
12          use encryption to shield their illicit activities from  
13          authorities.

14          (2) Because of warrant-proof encryption, the  
15          government often cannot obtain the electronic evi-  
16          dence and intelligence necessary to investigate and  
17          prosecute threats to public safety and national secu-  
18          rity, even with a warrant or court order. This pro-  
19          vides a “lawless space” that criminals, terrorists,  
20          and other bad actors can exploit for their nefarious  
21          ends.

22          (3) Many service providers, device manufactur-  
23          ers, and application developers who use encryption  
24          fail to implement technology that would allow the  
25          government to obtain electronic evidence necessary

1 to investigate and prosecute threats to public safety  
2 and national security.

3 (4) The Fourth Amendment to the Constitution  
4 of the United States strikes a balance between the  
5 individual citizen's reasonable expectation of privacy  
6 on one hand, and on the other, the legitimate need  
7 for the government to gain access to the most inti-  
8 mate spaces in citizens' lives in order to protect the  
9 public from criminal actors.

10 (5) The Framers of the Constitution provided  
11 specific barriers to government intrusion into the in-  
12 dividual's private, intimate space—namely, that the  
13 government must show by probable cause that evi-  
14 dence of a crime exists in that intimate space, and  
15 must have a neutral magistrate, detached from the  
16 law enforcement interest, approve law enforcement's  
17 request and issue a warrant.

18 (6) Once the government satisfies the burden of  
19 showing probable cause to a neutral magistrate, the  
20 government is entitled to search and seize evidence  
21 of a crime in an individual's private space.

22 (7) That careful balancing of interests estab-  
23 lished by the Framers has continued to be calibrated  
24 throughout the history of the United States as dif-  
25 ferent challenges have arisen, including, most nota-

1 bly, technological advances in daily life. For exam-  
2 ple, Congress has imposed additional statutory re-  
3 quirements that the government must meet and that  
4 a judge must find satisfied before a court can au-  
5 thorize interception of communications. But the in-  
6 dividual's right to privacy has never been absolute.

7 (8) If not addressed, criminal anonymity actu-  
8 ated by end-to-end encryption technology will con-  
9 tinue to pose a serious risk to the public.

10 (9) Nevertheless, advances in technology con-  
11 tinue without due consideration of issues of lawful  
12 access.

13 (10) Moreover, very little, if any, resources  
14 from the private sector or from educational and re-  
15 search institutions are devoted to finding techno-  
16 logical solutions to providing lawful access within  
17 different encrypted technological platforms.

18 (11) More resources should be devoted to  
19 incentivizing the best minds in the United States to  
20 research the issues described in this section and de-  
21 cide how to best provide the most secure products  
22 and services to customers while also providing law  
23 enforcement access to information the government  
24 needs to investigate criminals seeking to do the pub-  
25 lic harm and to protect national security.



1 **SEC. 602. DEFINITIONS.**

2 In this title:

3 (1) **APPLICANT.**—The term “applicant” means  
4 an individual, group of individuals, organization,  
5 nonprofit, or university that applies to participate in  
6 the prize competition under this title.

7 (2) **APPROPRIATE CONGRESSIONAL COMMIT-**  
8 **TEES.**—The term “appropriate congressional com-  
9 mittees” means the Committee on the Judiciary of  
10 the Senate and the Committee on the Judiciary of  
11 the House of Representatives.

12 (3) **ATTORNEY GENERAL.**—Except as otherwise  
13 provided, the term “Attorney General” means the  
14 Attorney General, acting through the Director of the  
15 National Institute of Justice.

16 (4) **PRIZE.**—The term “prize” means a cash  
17 prize.

18 (5) **PRIZE COMPETITION.**—The term “prize  
19 competition” means the prize competition estab-  
20 lished under section 603.

21 **SEC. 603. PRIZE COMPETITION.**

22 (a) **ESTABLISHMENT.**—Not later than 180 days after  
23 the date of enactment of this Act, the Attorney General  
24 shall, subject to the availability of funds appropriated  
25 under this title, establish in accordance with section 24

1 of the Stevenson-Wydler Technology Innovation Act of  
2 1980 (15 U.S.C. 3719) a prize competition—

3 (1) to incentivize and encourage research and  
4 innovation into solutions providing law enforcement  
5 access to encrypted data pursuant to legal process;  
6 and

7 (2) to award one or more prizes, not later than  
8 1 year after the establishment of the prize competi-  
9 tion, for technological solutions that provide law en-  
10 forcement access to encrypted data pursuant to legal  
11 process.

12 (b) REQUIREMENTS.—Technological solutions de-  
13 scribed in subsection (a)(2) shall include—

14 (1) providing maximum security for the device,  
15 platform, or system, consistent with the lawful ac-  
16 cess solution, to reduce the opportunity for unlawful  
17 hacking; and

18 (2) reducing or eliminating broad surveillance  
19 capabilities not targeted at specified facilities or in-  
20 dividuals pursuant to a warrant or order within the  
21 lawful access solution.

22 (c) ELIGIBILITY.—

23 (1) IN GENERAL.—To be eligible to win a prize  
24 under the prize competition, an applicant—

25 (A) shall have complied with—

1 (i) the requirements of the competi-  
2 tion as described in the announcement for  
3 the competition; and

4 (ii) subsections (g), (h), and (i) of sec-  
5 tion 24 of the Stevenson-Wydler Tech-  
6 nology Innovation Act of 1980 (15 U.S.C.  
7 3719) (relating to eligibility);

8 (B) in the case of a private entity, shall be  
9 incorporated in the United States and maintain  
10 a primary place of business in the United  
11 States; and

12 (C) in the case of an individual, whether  
13 participating singly or in a group, shall be a cit-  
14 izen of, or an alien lawfully admitted for perma-  
15 nent residence in, the United States.

16 (2) EXCLUSIONS.—The following entities and  
17 individuals shall not be eligible to win a prize under  
18 the prize competition:

19 (A) A Federal entity.

20 (B) A Federal employee acting within the  
21 scope of employment.

22 (d) PRIORITIZATION.—In selecting the winner or win-  
23 ners of the prize competition, the Attorney General shall  
24 give priority to projects that—

1           (1) incorporate a robust proof of concept model  
2           demonstrating the feasibility of the proposed tech-  
3           nology achieving the intended goals of the competi-  
4           tion as described in paragraph (a); and

5           (2) include a strategy, submitted with the appli-  
6           cation or proposal, to move the new technology,  
7           hardware, or other processes to market-scale deploy-  
8           ment.

9 **SEC. 604. IMPLEMENTATION.**

10          (a) DUTIES.—In implementing the prize competition,  
11 the Attorney General shall—

12           (1) advertise the prize competition;

13           (2) solicit participants;

14           (3) use amounts made available under section  
15          607(a)—

16           (A) to administer the prize competition;

17           and

18           (B) to award one or more prizes;

19           (4) develop criteria for the selection of winners;

20           (5) select judges under section 605 based on  
21          criteria developed by the Attorney General;

22           (6) announce, and award a prize to, one or  
23          more winners;

1           (7) protect against unauthorized use or disclo-  
2           sure of any trade secret or confidential business in-  
3           formation of a participant; and

4           (8) promulgate any rules and regulations nec-  
5           essary to carry out this title, including rules and  
6           regulations for submitting and reviewing applica-  
7           tions.

8           (b) AWARD.—

9           (1) RECOMMENDATION BY JUDGES.—After con-  
10          ducting a thorough review of each of the applicant  
11          submissions for the prize competition, the judges ap-  
12          pointed under section 605 shall—

13                 (A) submit in writing to the Attorney Gen-  
14                 eral a recommendation for an award to one or  
15                 more winners of the prize competition; or

16                 (B) if the judges determine that none of  
17                 the applicant submissions merit an award, sub-  
18                 mit in writing to the Attorney General a rec-  
19                 ommendation that no applicant be awarded a  
20                 prize, including a detailed explanation stating  
21                 the reasons why no applicant merits an award.

22          (2) SELECTION BY ATTORNEY GENERAL.—

23                 (A) IN GENERAL.—Not later than 1 year  
24                 after the date on which the Attorney General  
25                 establishes the prize competition, and after re-

1 viewing the recommendation submitted under  
2 paragraph (1), the Attorney General shall select  
3 one or more winners of the prize competition  
4 and award a prize to each winner.

5 (B) RECOMMENDATION OF NO PRIZE.—If  
6 the judges recommend under paragraph (1)(B)  
7 that no applicant be awarded a prize, the Attor-  
8 ney General may—

9 (i) select one or more award winners,  
10 notwithstanding the recommendation of  
11 the judges, and award a prize to each win-  
12 ner; or

13 (ii) award no prize to any applicant.

14 (C) NOTIFICATION OF NO PRIZE.—If the  
15 Attorney General determines not to award a  
16 prize to any applicant under subparagraph  
17 (B)(ii), the Attorney General shall notify the  
18 appropriate congressional committees not later  
19 than 90 days after that determination.

20 (c) ASSISTANCE FROM OTHER PARTIES.—

21 (1) ADMINISTRATION BY THIRD-PARTY ORGANI-  
22 ZATION.—

23 (A) IN GENERAL.—The Attorney General  
24 may enter into an agreement, including a grant,  
25 contract, or cooperative agreement, with a non-

1 profit or for-profit third-party organization,  
2 under which the third-party organization ad-  
3 ministers the prize competition.

4 (B) CONSULTATION; DIVISION OF AUTHOR-  
5 ITY.—If the Attorney General enters into a con-  
6 tract with a third-party organization under sub-  
7 paragraph (A), the third-party organization  
8 shall consult with the Attorney General on, and  
9 the Attorney General shall have the authority to  
10 make the final decision with respect to—

11 (i) the development of criteria for the  
12 selection of prize competition winners  
13 under subsection (a)(4); and

14 (ii) the selection of judges under sec-  
15 tion 605.

16 (2) NON-FEDERAL FUNDS.—The Attorney Gen-  
17 eral may solicit and receive non-Federal funds to ad-  
18 minister the prize competition and award a prize.

19 **SEC. 605. JUDGES.**

20 (a) APPOINTMENT.— The Attorney General shall ap-  
21 point not fewer than 3 judges who shall, except as pro-  
22 vided in section 604(b)(1)(B), recommend one or more  
23 winners of the prize competition.

24 (b) QUALIFICATIONS.—Each judge appointed under  
25 subsection (a) shall—

1           (1) have subject matter expertise in cryptology  
2           and encryption-related technology, including relevant  
3           devices, platforms, and systems;

4           (2) have an understanding of—

5                 (A) protections afforded to United States  
6                 citizens by the Constitution of the United  
7                 States against unreasonable searches and sei-  
8                 zures by the government; and

9                 (B) the legal authorities that permit the  
10                government to search and seize the personal ef-  
11                fects of United States citizens, particularly with  
12                respect to—

13                     (i) the search and seizure of individ-  
14                     uals' data from technological devices, plat-  
15                     forms, or systems; and

16                     (ii) the interception of communica-  
17                     tions over technological devices, platforms,  
18                     or systems; and

19           (3) have experience with law enforcement capa-  
20           bilities for lawful access to data and limitations on  
21           lawful access to data across various technological de-  
22           vices, platforms, and systems that use encrypted  
23           technology.



1 **SEC. 606. REPORT TO CONGRESS.**

2 Not later than 90 days after the date on which the  
3 Attorney General awards one or more prizes under section  
4 604(b)(2), the Attorney General shall submit to the appro-  
5 priate congressional committees a report on the prize com-  
6 petition that includes—

7 (1) a statement by the Attorney General that  
8 describes the activities carried out by the Attorney  
9 General with respect to the duties described in sec-  
10 tion 604(a);

11 (2) if the Attorney General has entered into an  
12 agreement with a third-party organization under sec-  
13 tion 604(c)(1), a statement by the Attorney General  
14 that describes the activities carried out by the third-  
15 party organization with respect to the duties de-  
16 scribed in section 604(c); and

17 (3) a statement by the Attorney General ex-  
18 plaining the basis on which each winner of the prize  
19 competition was selected.

20 **SEC. 607. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) AUTHORIZATION.—

22 (1) IN GENERAL.—There are authorized to be  
23 appropriated such sums as may be necessary, not to  
24 exceed \$50,000,000, to carry out this title.

25 (2) MINIMIZATION OF ADMINISTRATIVE EX-  
26 PENSES.—The Attorney General shall make all rea-

1       sonable efforts to control the administrative ex-  
2       penses of the prize competition so that the majority  
3       of the amounts made available under paragraph (1)  
4       are used for the prize or prizes awarded to the win-  
5       ner or winners of the prize competition under section  
6       603.

7       (b) APPROVAL OF CERTAIN AWARDS.—The value of  
8       a prize awarded to a winner of the prize competition under  
9       section 603 may not exceed \$1,000,000 without the ap-  
10      proval of the Attorney General or the Director of the Na-  
11      tional Institute of Justice.

12      (c) REIMBURSEMENT OF EXPENSES.—A judge ap-  
13      pointed under section 605 shall serve without pay, but  
14      may be reimbursed for actual and necessary traveling and  
15      subsistence expenses.

16      **SEC. 608. TERMINATION OF AUTHORITY.**

17      The prize competition and all authority provided  
18      under this title shall terminate on December 31, 2022.

19                   **TITLE VII—LAWFUL ACCESS**  
20                                   **TRAINING**

21      **SEC. 701. LAWFUL ACCESS TRAINING PROGRAM.**

22      (a) DEFINITIONS.—In this section:

23              (1) COOPERATIVE AGREEMENT.—The term “co-  
24      operative agreement” means a legal instrument of fi-  
25      nancial assistance between a Federal awarding agen-

1 cy or pass-through entity and a non-Federal entity,  
2 consistent with sections 6302 and 6305 of title 31,  
3 United States Code.

4 (2) PROVIDER.—The term “provider” means—

5 (A) a device manufacturer, an operating  
6 system provider, and a provider of remote com-  
7 puting service, as those terms are defined in  
8 section 3119 of title 18, United States Code, as  
9 added by title I of this Act; and

10 (B) a provider of electronic communication  
11 service, as defined in section 2510 of title 18,  
12 United States Code.

13 (3) TRAINING PROGRAM.—The term “Training  
14 Program” means the lawful access training and as-  
15 sistance program established under subsection (b).

16 (b) ESTABLISHMENT.—The Attorney General shall  
17 establish a lawful access training and real-time assistance  
18 program that draws upon the resources of the National  
19 Domestic Communications Center (commonly known as  
20 the “NDCAC”) and other relevant components of the De-  
21 partment of Justice as appropriate.

22 (c) ACTIVITIES.—

23 (1) TRAINING.—

24 (A) IN GENERAL.—The primary purpose of  
25 the Training Program shall be to provide train-

1 ing and assistance for law enforcement per-  
2 sonnel, with a particular emphasis on State and  
3 local personnel, on relevant technology and  
4 communications platforms, including how to  
5 submit appropriately tailored applications for  
6 digital evidence, consistent with existing legal  
7 requirements and protections for privacy and  
8 civil liberties.

9 (B) CONSULTATION.—The Attorney Gen-  
10 eral may consult with providers regarding the  
11 training and assistance under subparagraph  
12 (A).

13 (C) CONTENTS.—Training and assistance  
14 under the Training Program shall include—

15 (i) designing and providing training to  
16 distribute knowledge and expertise, includ-  
17 ing—

18 (I) consulting with the most  
19 qualified experts in law enforcement  
20 and the technology industry to assist  
21 in the development of all Training  
22 Program materials;

23 (II) identifying current effective  
24 law enforcement training programs  
25 and tools;

1 (III) identifying gaps in current  
2 law enforcement training programs  
3 and tools;

4 (IV) producing and maintaining  
5 training materials and curricula that  
6 will be used in classroom training ses-  
7 sions as well as for distribution to law  
8 enforcement agencies for reference;

9 (V) in coordination with pro-  
10 viders, delivering information and  
11 guidance on accessing digital evidence  
12 from specific providers to improve  
13 outcomes with regard to particular  
14 technology devices, platforms, or sys-  
15 tems; and

16 (VI) establishing and promoting  
17 the use of a consistent set of clear  
18 standards for securing and minimizing  
19 data collected by law enforcement;

20 (ii) serving as a centralized repository  
21 of knowledge and expertise about provider  
22 systems and procedures for submitting re-  
23 quests for data;

24 (iii) coordinating with Federal, State,  
25 and international training programs, as

1 well as any private-sector and nonprofit  
2 initiatives;

3 (iv) building and maintaining analytic  
4 and forensic tools to assist law enforce-  
5 ment agencies in interpreting data that has  
6 been obtained from service providers and  
7 devices;

8 (v) hiring and employing technical  
9 specialists that can help develop and main-  
10 tain analytic and forensic tools;

11 (vi) conducting relevant research and  
12 analysis to identify the greatest challenges  
13 with respect to the ability of law enforce-  
14 ment agencies to access and analyze digital  
15 evidence; and

16 (vii) providing a call center for law en-  
17 forcement officials to seek advice and as-  
18 sistance regarding accessing and analyzing  
19 digital evidence.

20 (2) OTHER FUNCTIONS.—In carrying out the  
21 Training Program, the Attorney General shall de-  
22 velop and coordinate additional functions to improve  
23 lawful access to digital evidence, including the fol-  
24 lowing:

1 (A) IDENTIFYING AND PROVIDING RE-  
2 SOURCES.—The Attorney General shall—

3 (i) work with the Office of Justice  
4 Programs to identify grants and other  
5 grant-making bodies to support law en-  
6 forcement access to digital evidence; and

7 (ii) include programs in the training  
8 activities that inform law enforcement  
9 agencies of the grants described in clause  
10 (i) and other resources that support—

11 (I) training programs;

12 (II) development and distribution  
13 of analytical tools; and

14 (III) maintenance of crime labs.

15 (B) DEVELOPMENT OF AUTHENTICATION  
16 SYSTEM.—The Attorney General shall work  
17 with providers and law enforcement agencies  
18 from Federal, State, and local systems to iden-  
19 tify options for, and develop, a system for  
20 verifying that an individual requesting data  
21 from a provider is a law enforcement official en-  
22 titled to such access pursuant to lawful author-  
23 ity.

1 (C) COORDINATING INTERNATIONAL EF-  
2 FORTS.—The Attorney General shall coordinate  
3 with international partners to—

4 (i) help set baseline standards and  
5 practices to lawfully access digital evi-  
6 dence;

7 (ii) promote standards to ensure the  
8 protection of privacy and civil liberties, and  
9 to the extent practical and helpful, har-  
10 monize efforts across borders.

11 (D) DEVELOPING MASTER DATABASE.—  
12 The Attorney General shall—

13 (i) develop a master database to track  
14 investigations in the United States in  
15 which a law enforcement agency secured  
16 the legal authority to access digital data  
17 but otherwise cannot gain access to that  
18 data in an intelligible format due to  
19 encryption; and

20 (ii) through the training activities de-  
21 scribed in paragraph (1), encourage the ro-  
22 bust participation from State and local au-  
23 thorities that is necessary to populate the  
24 database described in clause (i) of this sub-  
25 paragraph.



1           (E) OTHER ACTIVITIES.—The Attorney  
2           General, in carrying out the Training Program,  
3           shall provide any additional activities and serv-  
4           ices determined appropriate by the Attorney  
5           General.

6           (d) FUNDING.—

7           (1) AUTHORIZATION OF APPROPRIATIONS.—  
8           There is authorized to be appropriated to the Attor-  
9           ney General to carry out this section \$50,000,000  
10          for fiscal year 2020, which shall remain available  
11          until expended.

12          (2) LIMITATION.—Not more than 5 percent of  
13          the amount appropriated under paragraph (1) may  
14          be used to carry out activities under subsection  
15          (e)(2).

16          (e) COOPERATIVE AGREEMENT.—

17          (1) ASSISTANCE.—The Attorney General may  
18          enter into a cooperative agreement with providers or  
19          other persons to—

20                 (A) provide regular training to law enforce-  
21                 ment agencies through the Training Program  
22                 on information that is potentially available from  
23                 devices, operating systems, remote computing  
24                 services, or electronic communication services,  
25                 and on provider policies, in order to facilitate

1 tailored and specific applications from law en-  
2 forcement agencies;

3 (B) maintain up-to-date and comprehen-  
4 sive guidance for law enforcement agencies re-  
5 garding accessing information from providers;

6 (C) develop or maintain online mechanisms  
7 to—

8 (i) receive law enforcement requests  
9 for data; and

10 (ii) provide dated, electronic confirma-  
11 tion of receipt of a request described in  
12 clause (i); and

13 (D) assist with other tasks as determined  
14 necessary by the NDCAC.

15 (2) DONATIONS.—

16 (A) IN GENERAL.—The NDCAC may so-  
17 licit and accept donations for the Training Pro-  
18 gram from providers or other persons to be  
19 used to carry out this section.

20 (B) PRIVATE FUNDING REQUIREMENT.—

21 The NDCAC may not carry out the Training  
22 Program during a fiscal year, including fiscal  
23 year 2020, unless and until the NDCAC has re-  
24 ceived funding for that fiscal year under sub-  
25 paragraph (A) in an amount equal to the

1 amount authorized to be appropriated for fiscal  
2 year 2020 under subsection (d)(1).

3 (f) REPORT.—

4 (1) IN GENERAL.—Not later than 1 year after  
5 the effective date in section 801 of this Act, and  
6 once thereafter not later than 2 years after that ef-  
7 fective date, the NDCAC shall submit to the Com-  
8 mittee on the Judiciary of the Senate and the Com-  
9 mittee on the Judiciary of the House of Representa-  
10 tives a report on the Training Program.

11 (2) CONTENTS.—The report submitted under  
12 paragraph (1) shall include—

13 (A) ongoing efforts to identify and respond  
14 to gaps in training and distribution of technical  
15 tools;

16 (B) the state of cooperation with providers;

17 (C) novel uses of legal authorities;

18 (D) any new policies and best practices  
19 being seriously considered or adopted; and

20 (E) funding contributed by private individ-  
21 uals, organizations, and entities.

1     **TITLE VIII—EFFECTIVE DATE**

2     **SEC. 801. EFFECTIVE DATE.**

3           Titles I through V of this Act, and the amendments  
4     made by those titles, shall take effect 1 year after the date  
5     of enactment of this Act.

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