

114TH CONGRESS
1ST SESSION

S. 2344

To provide authority for access to certain business records collected under the Foreign Intelligence Surveillance Act of 1978 prior to November 29, 2015, to make the authority for roving surveillance, the authority to treat individual terrorists as agents of foreign powers, and title VII of the Foreign Intelligence Surveillance Act of 1978 permanent, and to modify the certification requirements for access to telephone toll and transactional records by the Federal Bureau of Investigation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 2, 2015

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide authority for access to certain business records collected under the Foreign Intelligence Surveillance Act of 1978 prior to November 29, 2015, to make the authority for roving surveillance, the authority to treat individual terrorists as agents of foreign powers, and title VII of the Foreign Intelligence Surveillance Act of 1978 permanent, and to modify the certification requirements for access to telephone toll and transactional records by the Federal Bureau of Investigation, 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 “Liberty Through
5 Strength Act II”.

6 **SEC. 2. ACCESS TO CERTAIN BUSINESS RECORDS COL-**
7 **LECTED UNDER THE FOREIGN INTEL-**
8 **LIGENCE SURVEILLANCE ACT OF 1978 PRIOR**
9 **TO NOVEMBER 29, 2015.**

10 (a) IN GENERAL.—Notwithstanding any other provi-
11 sion of law, the Director of the National Security Agency
12 shall have access to all business records collected under
13 section 501 of the Foreign Intelligence Surveillance Act
14 of 1978 (50 U.S.C. 1861) prior to November 29, 2015,
15 in the same manner and for the same purposes that the
16 Director had access to such records prior to such date.

17 (b) REQUIREMENT TO MAINTAIN BUSINESS
18 RECORDS.—Notwithstanding any other provision of law,
19 the Director of the National Security Agency shall main-
20 tain each business record referred to in subsection (a) for
21 the 5-year period beginning on the date that such record
22 was acquired under section 501 of the Foreign Intelligence
23 Surveillance Act of 1978 (50 U.S.C. 1861).

24 (c) EFFECTIVE PERIOD.—The authority for access to
25 business records under subsection (a) shall be in effect

1 during the 5-year period beginning on the date of the en-
2 actment of this Act.

3 **SEC. 3. AUTHORITY FOR ROVING SURVEILLANCE UNDER**
4 **THE FOREIGN INTELLIGENCE SURVEIL-**
5 **LANCE ACT OF 1978.**

6 Section 102(b)(1) of the USA PATRIOT Improve-
7 ment and Reauthorization Act of 2005 (Public Law 109–
8 177; 50 U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50
9 U.S.C. 1862 note) is amended by striking “and section
10 105(c)(2) read as they” and inserting “reads as it”.

11 **SEC. 4. PERMANENT AUTHORITY FOR INDIVIDUAL TER-**
12 **RORIST TO BE TREATED AS AGENTS OF FOR-**
13 **EIGN POWERS UNDER THE FOREIGN INTEL-**
14 **LIGENCE SURVEILLANCE ACT OF 1978.**

15 Section 6001 of the Intelligence Reform and Ter-
16 rorism Prevention Act of 2004 (50 U.S.C. 1801 note) is
17 amended by striking subsection (b).

18 **SEC. 5. REPEAL OF SUNSET OF TITLE VII OF THE FOREIGN**
19 **INTELLIGENCE SURVEILLANCE ACT OF 1978.**

20 (a) REPEAL.—Section 403 of the FISA Amendments
21 Act of 2008 (Public Law 110–261; 122 Stat. 2474) is
22 amended by striking subsection (b).

23 (b) CONFORMING AMENDMENT.—Section 404 of the
24 FISA Amendments Act of 2008 (Public Law 110–261; 50
25 U.S.C. 1801 note) is amended by striking subsection (b).

1 **SEC. 6. COUNTERINTELLIGENCE ACCESS TO TELEPHONE**
2 **TOLL AND TRANSACTIONAL RECORDS.**

3 Subsection (b) of section 2709 of title 18, United
4 States Code, is amended to read as follows:

5 “(b) **REQUIRED CERTIFICATION.**—The Director of
6 the Federal Bureau of Investigation, or the designee of
7 the Director in a position not lower than Deputy Assistant
8 Director at Bureau headquarters or a Special Agent in
9 Charge in a Bureau field office designated by the Director,
10 may request the name, address, length of service, local and
11 long distance toll billing records, and electronic commu-
12 nications transactional records of a person or entity if the
13 Director (or the designee) certifies in writing to the wire
14 or electronic communication service provider to which the
15 request is made that such information is relevant to an
16 authorized investigation to protect against international
17 terrorism or clandestine intelligence activities, provided
18 that such an investigation of a United States person is
19 not conducted solely on the basis of activities protected
20 by the first amendment to the Constitution of the United
21 States.”.

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